

**DEPARTMENT OF TRANSPORTATION AND RELAT-  
ED AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 2003**

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**HEARINGS**

BEFORE A

**SUBCOMMITTEE OF THE  
COMMITTEE ON APPROPRIATIONS  
UNITED STATES SENATE**

**ONE HUNDRED SEVENTH CONGRESS**

**SECOND SESSION**

**ON**

**H.R. 5559/S. 2808**

**AN ACT MAKING APPROPRIATIONS FOR THE DEPARTMENT OF TRANS-  
PORTATION AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING  
SEPTEMBER 30, 2003, AND FOR OTHER PURPOSES**

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**Department of Transportation  
Nondepartmental witnesses**

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**DEPARTMENT OF TRANSPORTATION AND RE-  
LATED AGENCIES APPROPRIATIONS FOR  
FISCAL YEAR 2003**

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**THURSDAY, FEBRUARY 7, 2002**

U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.*

The subcommittee met at 10:02 a.m., in room SD-124, Dirksen Senate Office Building, Hon. Patty Murray (chairman) presiding.

Present: Senators Murray, Byrd, Kohl, Shelby, Specter, Bond, and Bennett.

**DEPARTMENT OF TRANSPORTATION**

**STATEMENT OF HON. MICHAEL JACKSON, DEPUTY SECRETARY, DE-  
PARTMENT OF TRANSPORTATION**

**ACCOMPANIED BY HON. JOHN MAGAW, UNDER SECRETARY OF  
TRANSPORTATION FOR SECURITY**

**OPENING STATEMENT OF SENATOR PATTY MURRAY**

Senator MURRAY. The subcommittee will come to order. This will be the first of several subcommittee hearings on the Transportation budget for fiscal year 2003. As I review this budget, it is clear to me that our subcommittee will face extraordinary challenges this coming year, challenges that may make the Mexican truck issue seem easy by comparison.

In his State of the Union message, President Bush said his economic security plan can be summed up in one word, jobs, but his Transportation budget proposals have cut billions of dollars in infrastructure spending. This is the single largest proposed cut across the entire Government, and it threatens to eliminate over 350,000 jobs across the country.

During a hearing with OMB Director Mitch Daniels, held 2 days ago, I questioned the wisdom of this proposal. Director Daniels was quick to point out that in making this request, the Administration was only following the requirements of the TEA-21 law. What Mr. Daniels failed to say is that throughout his budget proposal, there are hundreds of examples where the Administration is asking us to ignore existing law, or to change the law.

Just within the Transportation budget, we are asked to ignore current law and to adopt measures to throw several communities out of the Essential Air Service Program. We are asked to ignore the TEA-21 law and transfer formula funds to the President's New Freedom Initiative. We are asked to ignore current law and impose

new user fees on railroads, shipping companies, and transporters of hazardous materials. So I expect that one of the issues we will pursue this morning is why the Administration supports current law when it requires billion-dollar cuts in infrastructure investment, but ignores current law in so many other places.

The proposed slashing of highway spending is just one challenge we are going to face. The Department of Transportation is currently establishing a brand-new agency, the Transportation Security Administration, known as TSA. It is clear from September 11 that we need to improve security in all of our transportation modes. I support the new Under Secretary in his major task of securing our various modes of transportation against threats of attack.

To date, the TSA has been funded largely through user fees, but for fiscal year 2003 the Administration is requesting that direct appropriations for this agency grow from less than \$95 million to \$2.2 billion. Dramatic increases are also requested for the Coast Guard's efforts in the area of homeland defense, and as I said earlier, the President's budget also recommends several controversial transportation user fees to partially offset the cost of a portion of these increases.

Finally, the President's budget proposes to freeze subsidies for Amtrak. At the same time, we are told that Amtrak's president will testify that unless Amtrak gets a 130-percent increase in funding this year, the majority of States across the Nation will lose passenger rail service.

So this is a challenging year. I would just ask my colleagues to keep these challenges in mind as we work on developing a budget for the coming year. If this subcommittee wants to fully fund the request for security while avoiding deep cuts in highway infrastructure, the elimination of passenger rail service, and the imposition of new user fees, then a budget that holds us to the President's requested level will not do the job.

In order to better acquaint us with the President's proposal, we are joined this morning by Deputy Secretary Michael Jackson. As many of you know, Secretary Mineta is recuperating from hip replacement surgery, and I know I speak on behalf of the entire subcommittee in wishing the Secretary a speedy recovery. Given the central role of transportation security in this budget request, I have also invited the new Under Secretary of Transportation for Security, John Magaw, to appear with Mr. Jackson.

We will also hold a hearing on cargo security with the Administrators from the Federal Railroad Administration, Federal Motor Carrier Safety Administration, Federal Highway Administration, Maritime Administration, and the Coast Guard.

This is the third hearing that Mr. Magaw will participate in just this week. Mr. Magaw, we do appreciate your stamina. I understand that almost all of the discussion during the two previous hearings focused on the huge challenge you face in the area of aviation security. In just 11 days the TSA is expected to take over the entire screening function at our Nation's airports, and in just 10 months the TSA is expected to implement a system to screen all checked baggage for explosives.

I do not underestimate those critical challenges one bit, but I do represent a State with one of the largest seaports in the United States, where every day tons of cargo travels by rail and by truck. I want to remind my colleagues that the new Transportation Security Administration is responsible for security in all of our transportation modes, and I think it is not too soon to ask what progress is being made in those areas. I appreciate that the TSA must focus on its near-term deadlines in aviation, but if the new agency is not yet focusing on port or rail or highway security, then we have to ask what is being done in other parts of DOT.

To date, we have received no details on the TSA's budget request for \$4.8 billion for next year. Instead, we have received only a seven-page narrative with no funding figures for any individual security activity. As such, I think we will need to spend some time this morning pursuing precisely what Mr. Magaw believes he can and cannot achieve at that funding level.

While we have many challenges ahead of us, this is important work. Transportation is a key part of our economy. Our transportation infrastructure affects our productivity and our quality of life, and when we make investments in our critical infrastructure, we are laying the foundation for our future economic growth.

We welcome the challenges we face, and I look forward to working with my colleagues to meet those challenges for the benefit of the American people. With that, I recognize Senator Bond for an opening statement.

#### STATEMENT OF SENATOR CHRISTOPHER S. BOND

Senator BOND. Thank you very much, Madam Chair, and welcome, Michael Jackson, John Magaw. We are delighted to have you here, and given what the chair has outlined as the tremendous responsibilities in your area, gentlemen, I wonder how you can spend the time up here testifying on the Hill. Perhaps we ought to get you to phone in your answers and let you go back to work, because this is a huge, very important challenge, and as the chair mentioned, it is not just airline security.

Those of us who fly all the time experience airline security efforts but the security of our ports, our rails, our trucks—and I took Amtrak to New York and back on Monday, and knowing what happened in the Baltimore Tunnel, we have an idea of what can happen if a terrorist were to strike a rail asset, so you have many challenges, and I will be interested to see how you deal with all those challenges and hope that you have the time to do them.

Senator Murray has outlined the major concerns that I think all of us have about the adequacy of transportation funding. I have great concerns about the shortfalls in highway dollars. I was co-author of the Highway Trust Fund, the realigned budget authority provision in TEA-21. We wanted to make sure that Highway Trust Fund dollars were spent only for Highway Trust Fund purposes, and under the budget proposal, the sum apparently has been reduced by \$8.6 billion.

That comes to almost \$159 million for Missouri. That costs us directly about 6,600 jobs at a time when we cannot afford the job loss, particularly when it is important in economic security. As I have said in this Committee and elsewhere many times, adequate

funding for highways is not just a matter of convenience or economic viability, it is a question of life and death for people who are driving in Missouri on highways that are not adequate for the traffic that they hold, so we are going to be very interested in your proposals. I know there are some legislative proposals. Another committee on which I serve will be working on those, and we would welcome your comments on those.

Two particular questions, Michael. I have had many conversations with you about trying to find a fair resolution for the disputes between the employees and the unions of the former TWA and the American Airlines on how to integrate their seniority lists to determine who may be furloughed, as furloughs continue, unfortunately, because of a decline in traffic.

The Secretary and you and I have had countless discussions. My preference would be to solve this by mediation so all parties would agree, but as a fallback, my still strong belief is that the dispute, if it cannot be mediated, ought to be submitted for binding arbitration under the Mohawk-Allegheny decision. Indeed, the mechanics of the two lines are currently in binding arbitration over this issue, and the reason we continue to talk about it, it could be severely disruptive to the overall passenger air transportation system and for the wonderful, fine American Airlines. If the employees and the pilots are in dispute, that is not going to help the provision of service to all of us and is not in the interests of air transportation.

Finally, the topic of Vanguard Airlines has been something that Secretary Mineta, you and I have talked about a long time. Vanguard has on two separate occasions applied for assistance from the Federal loan program, and the ATSB has recently denied approval of the application, citing Vanguard's inability to repay the loan as the reason. It was my understanding when we took part in the creation of this that the purpose of that fund was to assist airlines that were profitable and were on a profit mode prior to September 11, but otherwise could not survive after September 11 without the assistance.

Now, Vanguard is very important to the Kansas area. It provides critical value, with revenues, jobs, and service, and we have heard people saying we need to keep these otherwise viable airlines in operation, so I am going to be asking, since apparently, as far as I know, America West is the only other airline that has received assistance, with that fund, a large fund meant to keep airlines in business, how come Vanguard is not able to get that assistance.

So Madam Chair, I thank you for your indulgence, and look forward to the question session.

Senator MURRAY. Thank you. Senator Bennett.

Senator BENNETT. I have no opening statement, other than to welcome our witnesses here. Thank you.

Senator MURRAY. Thank you very much. We have a vote called, but I think I will go ahead with your opening statements, and we will start with Mr. Jackson.

#### STATEMENT OF DEPUTY SECRETARY MICHAEL P. JACKSON

Mr. JACKSON. Thank you, Madam Chairman. We, too, understand that there are many difficult issues to work through in the transportation world this year, and we welcome this opportunity to

have this discussion today and, as we go through the year, to work closely with you as we work through these important issues.

On behalf of Secretary Mineta, I am pleased, to discuss our 2003 budget, and specifically to focus a little bit on the Transportation Security Administration. I am pleased to be joined today by John Magaw, but I am even more pleased to be joined by him every morning as we work through the issues that he is working on.

#### OVERVIEW

President Bush is requesting \$59 billion for the Department of Transportation, which is an 8 percent increase over the 2002 budget, if the TEA-21 formula adjustments for highway were not included. But they are included, and these required adjustments mean that we have to tighten our belt and be very careful as we work through the challenges that we have on the transportation funding. Most DOT programs will, nonetheless, see an increase in 2003.

In his State of the Union address last week, President Bush said that his budget will support three preeminent goals for America: winning the war both at home and abroad, protecting our homeland, and reviving the economy. The DOT budget focuses on delivering performance against these three objectives, and it recognizes that we have these three preeminent challenges this year to deal with and is committed to meeting them.

#### TRANSPORTATION SECURITY ADMINISTRATION

The events of September 11 underscore the importance of transportation, as you have said, Senator Murray, on homeland security in particular, and our budget requests \$8.8 billion for homeland security.

The President's budget requests \$4.8 billion for the Transportation Security Administration. Honestly, we will have to come back in the next few months and help unpack the details of that budget. I will be happy to talk through how we see it and how we arrived at this number, but we recognize that there are several key decisions that will play out over the next couple of months and drive the 2003 budget as we stand up the Transportation Security Administration.

The \$4.8 billion will be funded by a combination of direct appropriations, with offsetting collections estimated in the proposed budget at \$2.2 billion.

TSA has been given an unprecedented task in standing up a full Federal takeover of the airport security responsibility, including all passenger baggage screening functions. By the middle of this month, aviation security will become a direct responsibility of the Federal Government, rather than the airline industry. TSA has much to do, but we are prepared to meet the task and to make it happen. Again, I would be happy, along with Under Secretary Magaw to talk about the details of how we plan to move forward with the TSA.

## COAST GUARD

The President's budget includes the largest increase in our Nation's history for the Coast Guard. It provides \$7.1 billion in search and rescue enhancements and increased port security. The President has proposed \$500 million to fund the Coast Guard's Deep-water project, which will replace our aging fleet of boats, planes, helicopters, and cutters, with state-of-the-art equipment. This committee has supported this procurement, which will take place over several decades, and we start in earnest with the work this year.

Our budget proposal also includes \$90 million to improve maritime safety. This initiative will modernize the maritime "911" system and eliminate existing radio coverage gaps along our coast to enhance the Coast Guard's ability to conduct search and rescue missions.

## HIGHWAY FUNDING

The Department's mission is, of course, much more focused on other priorities beyond the homeland security priorities that are so pressing in this year. First is an issue on the minds of many of us and one that the committee has raised this morning—the required adjustment to Highway Trust Fund spending in 2003. The reason for this, obviously, is embedded in the Transportation Equity Act for the 21st Century (TEA-21). TEA-21 guaranteed that highway funding would be tied to Highway Trust Fund tax receipts. It accomplishes this through a series of annual adjustment mechanisms, as this committee knows.

As a result of our strong economy over the last 3 years, we have enjoyed record funding for surface transportation, well above the baseline forecasts in the initial authorization bill. But because of the economy's slowdown in 2001, there was a drop in tax receipts flowing into the Highway Trust Fund requiring a downward adjustment.

The President's budget fully funds the guaranteed funding level set in TEA-21. As we make plans to reauthorize TEA-21 in 2003, we will work with Congress to evaluate any type of legislative mechanisms that could help to decrease the funding volatility that we are seeing in this program. We want to engage the Congress in a discussion of the volatility that we have seen and the mechanisms that might diminish that volatility.

## SAFETY FUNDING

The Department's 2003 budget also offers several other initiatives to support the country's air, land, and sea transportation system. Safety remains the priority of DOT. Nearly \$8 billion of the President's request is dedicated to improving transportation safety for all Americans. Aviation has certainly been a major focus of that investment in safety. The 2003 budget for the Federal Aviation Administration (FAA) reflects the Administration's strong commitment in funding safety efforts.

Recovering from the events of September 11, air traffic is now beginning to grow again. We see that the capacity problems we were worried about last spring and summer have not disappeared. They will recur, and we must be prepared to contend with them. The

total FAA program budget request of \$14 billion is 1.7 percent higher than 2002, when adjusted for changes that migrate various parts of the FAA into the new Transportation Security Administration. We are requesting \$3.4 billion in our FAA 2003 budget for our airport improvement activities.

The President's 2003 budget also requests \$371 million for activities of the Federal Motor Carrier Safety Administration, up 8 percent over 2002. I want to again thank this Committee for helping us work through the NAFTA trucking issues. The President is requesting \$116 million for the Federal Motor Carrier Safety Administration to improve our southern border safety enforcement and continue the deployment along the border that we launched with this committee's strong work.

#### PUBLIC AND RAIL TRANSPORTATION

For 2003, the President is proposing a record \$7.1 billion for public transportation. The budget request includes funding 29 new starts, projects that will carry over 190 million riders and save over 61 million hours in travel time.

#### FEDERAL TRANSIT ADMINISTRATION

Within the 2003 Federal Transit Administration proposal, \$145 million is dedicated to the President's New Freedom Initiative. This program will make transportation more accessible for persons with disabilities. A competitive grants program will make \$100 million available for alternative transportation services, and the remaining \$45 million will go to pilot projects that promote innovative approaches to overcoming transportation barriers for persons with disabilities.

The 2003 budget also includes a placeholder request for Amtrak of \$521 million, and we recognize it is as such. Understanding Amtrak's precarious financial circumstances, we must decide precisely what type of inter-city rail network we need, what we can afford, and how we can sustain it over time. The Administration is prepared and eager to engage with the Congress in a discussion on this issue. Last summer, Secretary Mineta called for an early reauthorization of Amtrak and inter-city passenger rail issues, and we expect that this issue will be a focus of subsequent and more detailed conversations with the committee.

This is a strong 2003 budget supporting the President's goals for air, land, and sea transportation. My prepared remarks focus only on a few highlights, and the rest of the Department obviously contributes to the core goals of the Department.

To conclude, Secretary Mineta and I believe that the 2003 budget for DOT will clearly enhance homeland security, but also manage to sustain the goals that are core to DOT's mission. We know that it is a tough year financially, but we believe the budget will help us do the job. We look forward to working with the subcommittee and all members of the Senate as it considers the President's 2003 budget. I will be happy to answer any questions that you might have. We have a prepared text for submission to the record with your permission.

[The statement follows:]

## PREPARED STATEMENT OF MICHAEL P. JACKSON

Mr. Chairman and members of the Subcommittee: On behalf of Secretary Mineta, I am pleased to appear before you today to discuss the Department's budget request for fiscal year 2003 and, more specifically, the budget for the Transportation Security Administration—TSA. Joining me today is Mr. John Magaw, our Under Secretary of Transportation for Security.

## OVERVIEW

President Bush is requesting \$59 billion for the Department of Transportation (DOT). This is an 8 percent increase over the 2002 budget, if TEA-21 formula adjustments for highways are excluded. With those required adjustments, however, we are tightening our belts, particularly on highway spending. Most DOT programs will nonetheless see an increase in 2003.

In his State of the Union address last week, President Bush said that his budget will support three preeminent goals for America: winning the war—at home and abroad; protecting our homeland; and reviving the economy.

Secretary Mineta testified before Congress last month about lessons of September 11, about how our transportation system is critical to the security of every American—and to the Nation's economy. DOT plays an important role in meeting all three of the President's goals, and our budget reflects that fact.

In 2003, we will continue our efforts of 2002 by focusing the Department's resources in a significant way to meet President Bush's three-part commitment. The Secretary and his entire team stand ready to work with President Bush, Congress and the American people. We will meet the President's goals.

## HOMELAND SECURITY—TSA AND THE COAST GUARD

The events of September 11, 2001, underscore the importance of transportation security as part of America's homeland security. Protecting airports, seaports, bridges, highways, pipelines, passenger and freight rails, and mass transit against the threat of terrorism is imperative. In 2003, added emphasis on this mission will be reflected in resources for personnel, technology and equipment to meet transportation security challenges. This is most clearly evident in the budgets of two DOT agencies: the Transportation Security Administration and the Coast Guard. In total, DOT's 2003 budget requests \$8.8 billion for homeland security.

In November, President Bush signed the Aviation and Transportation Security Act, establishing the TSA. While the initial focus of the TSA will be in the area of aviation where deadlines are specified in law, TSA will ultimately work to enhance security in all modes of transportation.

The President's budget requests \$4.8 billion in funding for the TSA in 2003, an increase of \$3.6 billion above the level of funds provided directly to TSA in 2002 and \$2.5 billion above the security-related amounts appropriated to both TSA and the Federal Aviation Administration (FAA) for TSA related activities. The \$4.8 billion would be funded through a combination of direct appropriations, offsetting collections in the form of the passenger security fee of \$2.50 and a fee to be paid by airlines. The total for the offsetting collections is estimated to be about \$2.2 billion. Resource information for the Federal Air Marshal program can be provided in a classified document or briefing.

John Magaw—former Director of both the Secret Service and the Bureau of Alcohol, Tobacco and Firearms—joined the DOT team to lead the new TSA as Under Secretary of Transportation for Security. With John, Secretary Mineta's team is working closely with the Office of Homeland Security and with multiple Federal, State, local and private partners in this vital work.

TSA's budget is presented in a service-oriented manner, rather than being broken down based on types of costs, such as operating expenses, capital costs, and research. These broad service areas are security operations, law enforcement, intelligence, and security regulation enforcement, and include headquarters and field resources with administrative, support and management personnel.

For the first time, beginning on February 18, aviation security will become a direct responsibility of the Federal Government rather than the airline industry. There is much to do to make this transition, and TSA is on track to make it happen.

TSA has been given an unprecedented task in standing up a full-Federal takeover of much of airport security, including all passenger and baggage screening functions. Our budget proposal includes funding for security screeners, law enforcement officers, screening management and Federal supervisors, as well as for baggage screening technology to ensure that the Congress's mandate that all bags are screened is

met. We will also fund the development and acquisition of new security technologies that will better enable us to perform the important aviation security functions.

In addition to TSA, virtually every other part of the Department is working to improve homeland security. The Coast Guard, the Maritime Administration, and the maritime industry are working together to enhance our maritime and port security efforts. This work is critical, as 95 percent of America's overseas commerce travels through our Nation's seaports.

Recently, President Bush spoke in Maine about the importance of the Coast Guard in protecting homeland security—and he praised the magnificent work of its men and women. The President's budget includes the largest increase in spending for the Coast Guard in our Nation's history. It provides \$7.1 billion in search and rescue enhancements and increased port security. Also included is a commercial navigation user fee, to help pay for increased port security needs.

The President has proposed \$500 million to fund the Coast Guard's "Deepwater" project. Deepwater will replace our aging fleet of boats, planes, helicopters, and cutters with state-of-the-art equipment—delivered over more than two decades.

Deepwater will rely upon a new performance-based approach to the acquisition of major assets. This investment will increase the Coast Guard's effectiveness in saving lives and assuring homeland security. It will equip the Coast Guard to protect the environment and enforce immigration, drug, and fishery laws at sea.

The Department's mission is, of course, focused on many other important priorities.

#### HIGHWAYS

First is an issue that is on the minds of many of us—the required adjustment to Highway Trust Fund spending in 2003. The reason for the adjustment can be found in the law that sets highway funding—the Transportation Equity Act for the 21st Century (TEA-21).

TEA-21 guaranteed that highway funding would be tied to Highway Trust Fund tax receipts. It accomplishes this through a series of annual adjustment mechanisms. As a result of a strong economy, for the past three years TEA-21 has provided record-level funding for surface transportation—well above baseline levels forecast in the 1998 authorization.

Because of the economy's slowdown in 2001, there was a drop in tax receipts flowing into the Highway Trust Fund. In 2003, highway obligations will therefore be 29 percent below the 2002 level. Actual spending, which typically lags obligations on these multi-year highway projects, will fall nationally in 2003 by roughly 3 percent.

In a nutshell, spending for highways will be lower in 2003 based on a formula set in law that adjusts spending to Trust Fund receipts. The President's budget fully funds the guaranteed funding level set in TEA-21. As we make plans to reauthorize TEA-21 in 2003, we will work with Congress to evaluate legislative mechanisms that could decrease funding volatility.

The Department's 2003 budget also offers several other initiatives to support the country's air, land and sea transportation systems.

#### AVIATION AND SURFACE TRANSPORTATION SAFETY

Safety remains a cornerstone priority at the DOT. Nearly \$8 billion of the President's request is dedicated to improving transportation safety for all Americans.

In addition to homeland security and safety, improving mobility while protecting the environment remains a focus of so much of our work at DOT. In recent years, the United States has invested billions of dollars in transportation in order to accomplish these multiple goals.

Aviation has certainly been a major focus for that investment. The 2003 budget request for the FAA reflects the Administration's strong commitment to making air travel safer and more efficient.

Recovering from the events of September 11, air traffic is now beginning to grow again. The FAA must continue its efforts to provide for increased efficiency and capacity within our Nation's airspace.

The total FAA program budget request of \$14 billion is 1.7 percent higher than in 2002, when adjusted for changes in mission related to the TSA. We are requesting \$6 billion for operating and maintaining the air traffic control system, \$700 million for FAA's air traffic control system modernization, and \$290 million for safety related technologies and systems to prevent runway incursions and other accidents.

We are requesting \$3.4 billion in our FAA 2003 budget for airport improvement activities.

Turning from aviation to surface transportation, here too the focus on safety is at the heart of our work at DOT. Sadly, traffic crashes claimed over 40,000 lives

annually, accounting for over 90 percent of transportation-related deaths. The Department's goal is to reduce highway deaths through education, research and new technologies—and rigorous enforcement of our traffic and safety laws.

To achieve our highway safety goals, the budget calls for \$200 million for the National Highway Traffic Safety Administration's safety research and information programs. It provides for \$225 million in grants to states for their highway safety programs.

The Federal Motor Carrier Safety Administration (FMCSA) has been working to achieve the goal of reducing truck-related fatalities from more than 5,000 in the year 2000 to less than 2,700 by the year 2010.

The President's 2003 budget requests \$371 million for motor carrier safety activities, 8 percent more than 2002. The budget provides \$190 million to support continued research and enforcement of FMCSA's interstate commercial carrier regulations. It includes \$165 million for Motor Carrier Safety Assistance Program State grants.

I again want to thank you for supporting our commitment under the North American Free Trade Agreement in DOT's 2002 Appropriations Act. The President is requesting \$116 million for FMCSA to improve our southern border safety enforcement program. This will support the comprehensive Federal and State safety enforcement presence at the U.S./Mexico border that is being deployed this year.

#### PUBLIC TRANSPORTATION AND RAIL

Public transportation—transit, commuter rail and buses in urban, suburban and rural areas of the country—reduces traffic congestion and enhances mobility. For 2003, the President is proposing a record \$7.2 billion for public transportation. The budget request includes funding for 29 new starts—projects that will carry over 190 million riders and save over 61 million hours in travel time.

Within the 2003 proposal for the Federal Transit Administration, \$145 million is dedicated to the President's New Freedom Initiative. This program will make transportation more accessible for persons with disabilities. A competitive grants program will make \$100 million available for alternative transportation services and the remaining \$45 million will go toward pilot projects that promote innovative approaches to overcoming transportation barriers for passengers with disabilities.

The 2003 Budget also includes a placeholder request of \$521 million for Amtrak. Understanding Amtrak's precarious financial circumstances, last summer Secretary Mineta called for passenger rail reauthorization in 2002, in advance of the expiration of Amtrak's current authorization. We must decide precisely what type of intercity rail network we need, what we can afford, and how to sustain it over time.

On other rail matters, the President's budget supports beefing up the safety program at the Federal Railroad Administration, recommending \$195 million for safety initiatives and rail research efforts.

#### OTHER PROGRAMS

The Research and Special Programs Administration (RSPA) oversees the transportation of hazardous materials, including America's 2.1 million miles of gas and oil pipelines. The President's Budget includes \$64.5 million to hire new pipeline inspectors and to initiate a research and development program for the safety of our energy infrastructure.

RSPA's budget also includes \$2.1 million for the Office of Emergency Transportation's Crisis Management Center, which demonstrated its critical importance to the Nation on September 11 as the Department's intermodal communication center.

In addition to the previously mentioned Coast Guard budget, our budget proposal includes a \$90 million initiative to improve maritime safety. This initiative will modernize the maritime "911" system and eliminate existing radio coverage gaps along our coast and enhance the Coast Guard's ability to find those in distress.

#### CONCLUSION

All up, this is a strong fiscal year 2003 budget supporting the President's goals for air, land and sea transportation. My prepared remarks focus on only a part of the whole picture. Yet each organization within DOT contributes indispensably to accomplishing the DOT goals I have outlined.

To conclude, Secretary Mineta and I—along with his DOT leadership team—believe that the President's 2003 budget for DOT will clearly enhance homeland security—significantly. But more, it will improve transportation safety, maintain America's critical transportation infrastructure, increase transportation capacity, protect the environment, and improve mobility. In short, it will do the job.

We look forward to working with this Subcommittee and all members of the Senate as it considers President Bush's 2003 budget request.

#### AVIATION INCIDENT

Senator MURRAY. Thank you very much, Mr. Jackson.

Mr. Magaw, I understand you do not have an opening statement but will be available for questions.

Mr. MAGAW. That is right. I will be available for questions, but I also believe my responsibility is to report an incident to you this morning that you may not have heard of yet, and I do not want to leave this hearing without telling you about that incident. However, I can only give you partial information because that is all I have right now. United 855, en route Buenos Aires from Miami, had an incident occur early this morning. The cockpit door was kicked by a passenger. The panel, or the bottom portion of it, was damaged, but the door held. The crew and others assaulted and injured the person. The flight landed in Buenos Aires. They did not divert and go to a different location.

The person, as I understand it, is now in custody but is injured, maybe seriously injured, and is being treated. The information about what was used to injure the individual varies in four or five things, so I do not want to state what that is. Actually, one of the things that they used to injure the individual was a fire extinguisher, and that is about what I have right now.

I did get the call a few minutes after the air traffic control towers were notified. I got the call around 4:40 this morning, and the plane did land safely around 8:00 a.m., in Buenos Aires.

Senator MURRAY. Thank you, Mr. Magaw, and I am sure we will have questions about that. I have a number of questions as well about the budget. There is a vote in progress. Senator Shelby has already voted, so I am going to let him make his opening statement and do questions, and then I will be back in a minute.

#### STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you. Thank you very much. I am going to welcome you—you have been welcomed by the chairman, but welcome you to the hearing. I look forward to our discussions this morning on the Department of Transportation's 2003 budget request. Hopefully we will have an opportunity to look under the hood of the budget request and to better frame what this request means for the Department's multifaceted agenda.

While the Transportation budget request is fairly straightforward, it does rely in a small part on some of the same tried and rejected budget gimmicks such as new user fee taxes. Although the Transportation budget request avoided the wholesale reliance on new user fees taxes that characterized the last Administration's submissions, somewhere the budget gnomes just could not let go completely.

The request continues the proposal for \$65 million in new user fee taxes for rail safety inspection and a hazardous materials safety program even though these proposals have been submitted to Congress and dismissed for the past 5 or 6 years, and the request resurrects a Coast Guard navigation fee for \$165 million that has also

been rejected previously by the Congress. I would be surprised if they fare any better this year.

Although the hole in the budget created by the user fee requests is smaller than in years past, even a small hole will have to be made up somewhere. Because of the funding distortions caused by special budgetary treatment for other capital accounts, closing this gap will likely come at the expense of those accounts that have the greatest difficulty absorbing the shortfall, but the difficulties presented by the user fee taxes budget gimmick pale in comparison to the \$8½ billion cut in highways.

In the years past, I have contended that the special budgetary treatment of the highway, transit, and aviation capital accounts put pressure on FAA operations, Coast Guard operations, and Amtrak subsidies. This year, the special budgetary treatment for highways puts pressure on itself as well as those other accounts. Clearly, restoring some level of reason to the highway account will be the biggest issue that the transportation budget will face in 2003.

I understand that the budget request complies strictly with the law as articulated in TEA-21, but I had actually hoped for a little more leadership on infrastructure investment than a blind devotion to a flawed highway authorization act. I believe that, because of the mechanically derived highway numbers, this budget presents an enormous challenge for this Subcommittee; namely, how to find the resources for a more responsible level of highway infrastructure investment. That is by no means the only challenge in this request, but it is undoubtedly the most daunting from a budgetary resource perspective.

What the \$8½ billion cut to the highway program demonstrates to me is the folly of trying to set infrastructure investment on automatic pilot and how flawed the TEA-21 legislation was in trying to match annual gas tax receipts to the annual highway infrastructure appropriation. If the goal of TEA-21 was to set the highway program on autopilot, then the RABA adjustment this year caused what aviators refer to as controlled flight into terrain.

Secretary Jackson, as you begin to formulate reauthorization proposals for highways and transit, I hope and trust that you will avoid mechanical approaches to establishing highway obligation limitation levels. One, if the primary argument for linking highway gas tax receipts to highway spending levels was the need to provide State Departments of Transportation with a stable and certain level of highway investment, then this budget request shows how badly TEA-21 failed.

This request represents the largest swing in the highway program in history. Such a swing would not have been possible without the fact of accountability that comes from the TEA-21 autopilot. To illustrate just how counterproductive this approach is, consider what drives the amount of receipts into the Highway Trust Fund, which are derived from gas and excise taxes. The economy drives the receipts. When the economy stumbles, receipts into the Highway Trust Fund decrease.

Under the approach required by TEA-21 black box fuzzy logic, investment in highways and the immediate job creation that highway spending supports contracts as the economy slows. Just at the time we should be increasing highway spending for short- and long-

term economic stimulus, the TEA-21 autopilot would have us cut highway spending. This is misguided, shortsighted, and an abrogation of our prerogatives as elected officials.

I believe this committee should not, and I believe it will not, be bound by funding levels derived in an artificially constrained process void of the public policy and economic concerns that must influence decisions regarding responsible investment in highway infrastructure.

Now, moving to other good news in the budget, I note that the Administration provided \$521 million of additional subsidy for Amtrak in fiscal year 2003. Once again, I wish the Administration had provided some greater leadership in this continuing crisis. Simply requesting the same level appropriation as was requested for last year does little to extricate the country from this failed experiment in passenger rail service.

I note that Chairman Murray anticipates an Amtrak hearing in the near future, and I will save my detailed comments and observations for that hearing. In short, I think it is time to stop ignoring reality with Amtrak and just start doing something that makes sense. The Administration, I believe, must lead on the issue of Amtrak, because, unfortunately, a majority of the Congress has demonstrated its inability to effectively address the chronic Amtrak problem for more than 20 years.

Last year at our budget hearing, Secretary Mineta indicated that he anticipated spending 70 percent of his time on aviation matters. I suspect that his estimate turned out to be about right, although at the time I do not think he was referring to aviation security matters. The budget requests \$4.8 billion for the Transportation Security Administration. I look forward to greater detail about how that money, and the \$1.25 billion appropriated for 2002, will be used to enhance the security of our transportation systems.

As critically important as the security and national defense issues are, I would urge you to make time for the Department's other four missions and programs. In particular, the Coast Guard's Deepwater and National Distress and Response System Modernization projects are two of the most expensive and the most challenging procurements that the Coast Guard, if not the Department, have ever undertaken.

Like Deepwater, the National Distress and Response System Modernization project is slipping, and deserves greater attention from OST and OMB than it has received. I was recently informed that the Coast Guard will postpone the awarding of the Deepwater contract. This does not bode well for a procurement that has been considered as having a high risk schedule and acquisition strategy.

We will have a hearing next week on Coast Guard programs, and I will go into more depth on those procurements and other issues at that time. I wanted to bring them to your attention to encourage you, Under Secretary Magaw, to look into the Deepwater procurement during this most recent delay, and try to make some sense of it from a homeland security and transportation security standpoint.

I am always concerned when a program that is advertised as the perfect solution to one set of missions for the Coast Guard emerges with no modification as a new and improved perfect solution to a

dramatically different set of missions. There is some soap being sold here, and it carries a \$10 billion price tag.

In turn, the NHTSA effort to comply with the TREAD Act faces some substantial challenges as it had difficulty in meeting the statutory deadlines. I urge you to provide the management oversight to get that effort on track. Every year, more than 40,000 Americans lose their lives on our highways, while less than 3,000 die in the rest of the system. Accordingly, whatever improvements we can make in highway fatality rates pay significant dividends in terms of lives saved.

The Federal Government is committing more resources than ever to improve highway safety, and I am not convinced we are doing as well as we should. "Click It or Ticket" or similar seat belt mobilization campaigns, if applied on a national basis, should have immediate and lasting safety benefits.

Fiscal year 2003 is an important one for reauthorization proposals for highways, transit, and aviation. I encourage you to review the things that have worked and those that have not before you formulate the Administration's reauthorization procedures. Clearly, in the aftermath of 9/11, and with the draconian cuts to the highway program necessitated by TEA-21, there is a need to substantially reassess the appropriateness of the lack of flexibility in our infrastructure investment programs.

What I am trying to say is that you have a lot of challenges facing you at the Department, and you must constantly resist only reacting to the crisis of the moment. It is imperative that you keep a long-term view of all the missions of the Department, as well as manage the immediate challenges.

I look forward to this continuing hearing, and to the other people's statements.

Senator Byrd.

#### STATEMENT OF SENATOR ROBERT C. BYRD

Senator BYRD. Chairman Shelby, thank you. Thank you for your service to the Nation. Thank you for your service to your State. Thank you for your service to the Senate, as the former Chairman, and now as Ranking Member. You are a valuable asset to the Nation. I did not get to hear all of your statement, but I will have an opportunity to concentrate on it later. At the moment, I have a statement of my own, and then I must go to the budget hearing which is in progress at this moment, before which Secretary of the Treasury, Mr. O'Neill, is appearing.

So I, too, want to wish Secretary Mineta a speedy recovery, and I hope you will pass along, Mr. Jackson, to him our warm wishes.

Mr. JACKSON. Yes, sir, I will.

Senator BYRD. The events of September 11 focused the minds of the American people on our national transportation system in important new ways. Our entire national aviation system was brought to a halt. People needed urgently to find alternative ways to travel. Citizens reflected on the security of our transportation system in ways that they had never done before. They reflected not only on the safety of the aviation system, but on other modes of travel as well.

Our transportation network of roads, runways, and railways has always been central to the health of our national economy. Roads, runways, railways. Nothing about September 11 changed that. Yet as I review the President's budget request for the Department of Transportation for fiscal year 2003, I am greatly disappointed by its lack of balance.

Hugely increased sums are requested for transportation security. I do not doubt that these increased sums are needed, and I support them, but these increases for security are more than offset by a dramatic \$9 billion cut to our investment in our Nation's highway infrastructure. As such, even with all of the increased funds requested for transportation security, the overall budget for the Department of Transportation drops by \$1.7 billion, or almost 3 percent. While our investment in highway construction has risen in recent years, the fact is that we have not yet begun to reverse the trends of accelerating road deterioration and worsening congestion.

I believe that many of my colleagues in the Senate will agree that we should be looking at ways to move our investment in highways forward, not backward. Our economy is in recession. If there ever is an appropriate time to consider putting thousands of people out of work, now is not the time.

During the Senate's consideration of the TEA-21 highway bill, I, along with Senator Gramm of Texas, championed an amendment that sought to ensure that our investment in highways would fully recognize the receipts coming into the highway account of the Highway Trust Fund. Up until that point, there was no recognition in either the budget, or the appropriations processes, of the billions of dollars that the public was paying into the Trust Fund, billions that were staying in the Trust Fund unspent, while our road conditions worsened.

While we were successful in TEA-21 in ensuring that spending would keep pace with revenues, not much was said at the time about the fact that the highway account of the Trust Fund already had an unspent balance of \$14.7 billion. Page 744 of President Bush's budget now shows that the unspent balance has grown to \$18.1 billion.

While a portion of this balance must be reserved to pay for obligations already incurred, the fact is that the majority of this balance represents tax dollars that were paid at the gas pump but are not being utilized for highway construction or renovation. If there ever is a time to consider tapping a portion of this balance to keep our highway construction enterprise moving forward, now is the time.

Whether we will be able to achieve that goal will depend on the larger budget debate that will commence shortly in the Budget Committee. Chairman Murray is a member of that committee, as am I. I hope to work with her and with other Members to see to it that we do not put hundreds of thousands of jobs at risk while our economy is attempting to pull itself out of recession.

#### PREPARED STATEMENTS

Thank you, Madam Chairman, and thank you, Ranking Member Shelby, and thank you to the members of the subcommittee on both sides.

That completes my statement.  
[The statements follow:]

PREPARED STATEMENT OF SENATOR ROBERT C. BYRD

Thank you Madam Chairman.

I commend you and your ranking member, Senator Shelby, for moving out rapidly and initiating hearings on the Administration's budget request for the Department of Transportation. I, too, want to wish Secretary Mineta a speedy recovery and I ask you, Mr. Jackson, to please pass along our warm wishes to the Secretary.

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Thank you Madam Chairman.

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PREPARED STATEMENT OF SENATOR HERB KOHL

Good morning and thank you for holding this important hearing today. I believe that the work of this Subcommittee is essential as we continue to secure our transportation system post September 11. Welcome Under Secretary Jackson and Under Secretary Magaw. I look forward to your comments this morning.

The Senate has been debating a stimulus bill to help jump start our economy. Many of my colleagues disagree on the best way to do this in the short run. But one thing is certain, long term sustained economic growth requires a modern trans-

portation network that allows for people, goods and services to move about freely and safely.

That is why I am disappointed that the President's budget request includes a 29 percent cut in much needed funding for highway construction. During these uncertain economic times, we cannot afford such a drastic cut in funding for projects that will help create jobs and help move people and goods safely and efficiently.

I would like to commend you and the Department of Transportation on your work as it relates to the many provisions included in the Aviation and Transportation Security Act. I am encouraged to see that the President's Budget request includes \$4.8 billion in total funding for the new Transportation Security Administration. However, I am frustrated by the lack of attention the department seems to be giving to the security of chartered aircraft and general aviation. I will reserve further comments on this issue until the questioning period, but I want to put our witnesses on notice that this is a priority for me.

There can be no need more urgent than the safety of the American flying public. And the simple fact is that, if air travel is not safe and passengers do not fly, the entire airline industry is imperiled. We must ensure that we have sufficient resources to bring aviation security to an acceptable level, whether that means buying the necessary numbers of explosive detection machines to screen checked luggage, paying for the hiring and training of additional airport personnel to screen checked baggage, or investing in high tech security devices to identify suspected terrorists.

Last Fall, when we passed the Aviation and Transportation and Security Act, Congress acted to fix a gaping hole in the entire aviation security system. While enormous efforts were being made to check carry-on bags after September 11, until the changes mandated by this legislation, almost all checked bags were still being loaded onto our passenger airplanes with no screening. This failure to check bags was creating an unacceptable security risk for thousands of passengers everyday and leaving our air transportation system vulnerable to terrorists.

But now, as a result of this recently passed legislation, all checked bags must either be screened for explosives or subject to bag matching so that we know the person who checked the bag actually boarded the airplane. Most important of all is the requirement that, by the end of this year, all bags must be screened by explosive detection machines.

But this legislation will be worthless unless we provide adequate funding to purchase and install the explosive detection machines. I will therefore expect our witnesses today to tell us how the Congressional mandate to install these machines and screen all checked baggage will be fulfilled by the end of this year.

Thank you Madam Chairman and I look forward to a productive hearing.

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#### PREPARED STATEMENT OF SENATOR RICHARD J. DURBIN

Chairman Murray, thank you for holding this important hearing on the U.S. Department of Transportation's fiscal year 2003 (fiscal year 2003) budget. I look forward to working with you and our Subcommittee colleagues this year to address a number of critical transportation issues.

I also want to say a word of welcome to Deputy Secretary Michael Jackson and new Under Secretary of Transportation for Security John Magaw. This Congress and this Administration are facing an unprecedented challenge on aviation and transportation security. We will be pressed to find adequate resources to help state and local governments deal with transportation security and fund critical infrastructure projects.

I want to touch on a few issues this morning.

#### AMTRAK

On February 1, Amtrak President George Warrington asked Congress to provide \$1.2 billion in fiscal year 2003 to ensure the continued nationwide operation of Amtrak. Without this influx of federal funds, Amtrak officials will be forced to immediately cut jobs and may have to eliminate long distance train service as soon as October.

As you know, the President included \$521 million for Amtrak in his fiscal year 2003 budget. This is the same level of funding as last year and represents less than half of Amtrak's request. While I believe this funding level is inadequate and short-sighted, it is my hope that Congress, and this subcommittee in particular, will take the necessary steps to fund fully Amtrak and preserve our only national passenger rail system.

I've also been working with the Senate Commerce Committee and have cosponsored legislation that would reauthorize Amtrak, provide emergency funds for secu-

city and life safety, and further develop high-speed passenger rail service in corridors throughout the country.

But while we wait for action in other committees, we need to go the extra mile to ensure that intercity passenger rail service is preserved and that no jobs are lost in this critical transportation sector. We need this Administration as a partner in this important endeavor. Yesterday, I met with Federal Railroad Administrator Allan Rutter and expressed my opinion that unless this Administration steps forward and gives us a positive signal about Amtrak, then national passenger rail, as we know it, will come to an abrupt and premature end later this year.

My home state of Illinois benefits greatly, both directly and indirectly, from Amtrak jobs and service. An average of 48 Amtrak trains run each day from 30 Illinois communities on more than 1,000 miles of track. Ridership in the state exceeded 2.9 million during 2000. In 1999, Amtrak employed more than 2,000 Illinois residents and spent \$45.6 million for goods and services in the state.

#### AVIATION SECURITY

I commend the Department and the new Transportation Security Administration (TSA) for moving quickly to organize and implement the aviation security legislation Congress passed last fall. However, as Inspector General Ken Mead points out, many of the major challenges lie ahead. For example, deploying and installing explosive detection systems (EDS) and hiring as many as 40,000 employees for screening and other aspects of airport and aircraft security.

I understand the current requirements that 100 percent of checked baggage must be screened by EDS or an alternative method such as positive passenger match. That's a major improvement from the 10 percent figure we were quoted last fall. However, EDS machines still play too small of a role in screening checked baggage. The manufacturing and deployment backlog are primarily to blame. However, the Inspector General has found these EDS machines to be underutilized.

Inspector General Mead suggested that using the currently deployed EDS equipment to its fullest potential more than 200 bags per machine per hour would more than quadruple the overall percentage of EDS screened checked luggage. He has also recommended that current EDS staffing levels must be significantly increased to efficiently screen checked luggage. These actions would bring an added security dimension to commercial aviation. And I hope the new TSA takes these recommendations seriously.

I also want to inquire about how TSA is working with smaller airports around the country. I understand that the Department has dispatched teams to evaluate airports and their security operations. I hope that the Department will work cooperatively with airport operators to help solve many of the security challenges that we'll face in the coming months and will expeditiously process their information and requests, such as bomb-blast analyses.

#### HIGHWAY FUNDS

I was alarmed by the Administration's almost \$9 billion cut to the federal highway program. According to the Illinois Department of Transportation, this could mean a \$225-\$250 million reduction for the State of Illinois a quarter of the State's federal highway funds. And as many as 10,000 Illinois jobs could be affected (American Road and Transportation Builders Association). As we try to alleviate traffic congestion, improve the environment, stimulate the economy, and provide increased highway access, I find it remarkable that the Department would slash highway funding to the states. I will stand with my colleagues on both the authorization and Appropriations Committees to correct this serious mistake.

#### CHICAGO AVIATION CAPACITY EXPANSION

Finally, I'd like to put a plug in for legislation that I introduced in the Senate, S. 1786. It would codify an historic aviation agreement between Illinois Governor Ryan and Chicago Mayor Daley.

This agreement and this legislation are rapidly gaining broad-based support. To date, there are 18 Senate cosponsors and nearly 90 House cosponsors. Groups ranging from business to labor to general aviation to airlines to small/community airports across the Midwest support this historic agreement and my legislation.

Chicago O'Hare International Airport was the world's busiest last year. It is also one of the country's most congested and chronically delayed airports. For all practical purposes, the O'Hare airfield hasn't been materially improved since 1971 and continues to use an antiquated runway layout plan. By simply reconfiguring the airport layout, many weather-related delays could be avoided. By replacing old run-

ways with safer configurations, delays and cancellations would be greatly reduced, eliminating delays that often ripple through the entire nation.

This agreement also moves ahead with a south suburban airport near Peotone. Common sense dictates that we'll need the capacity in the future. But just like expanding O'Hare doesn't eliminate the need for a third airport, building Peotone won't replace O'Hare modernization. Both are needed to address serious aviation capacity problems in the region.

Meigs Field on Chicago's Lake Michigan shoreline would also be preserved under this State-City aviation agreement.

Governor Ryan and Mayor Daley deserve great credit for ending more than two decades of inaction on airport modernize and expansion. But, in order for this agreement to become reality and for it to have long-term benefits, it must be codified. Thus, passing S. 1786 must be a high priority.

I would welcome the Department's support.

Chairman Murray, again thank you for the opportunity to talk about these issues and the fiscal year 2003 Budget.

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#### PREPARED STATEMENT OF SENATOR PATRICK J. LEAHY

Madam Chairwoman, thank you for calling this hearing today. I would like to thank our witnesses, Deputy Secretary Jackson and Under Secretary Magaw, for coming before the subcommittee to discuss the President's transportation budget request for 2003.

I share the President's concerns about funding necessary rail, port, and air security programs. But the budget blueprint he has put forward is really the tale of two budgets. The President has properly emphasized the budget to combat terrorism, but his domestic budget is riddled with many opportunistic cuts, motivated by ideology and special interests, that would hurt America's multi-faceted transportation system.

For instance, the President calls for the break-up of Amtrak without offering a comprehensive alternative national rail transportation plan. He also does not restore funding to the Federal Highway Trust Fund, which is \$8.6 billion short; a deficit that will leave Vermont highway projects \$32.2 million in the hole next year. And his budget cuts direct funding for the Essential Air Service program that brings air service to small communities, like Rutland, Vermont. Without this program, air passenger service to dozens of small communities across the country may end.

I look forward to reviewing the testimony from today's hearing to see the direction the Administration plans to take in the coming year. Thank you.

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#### PREPARED STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL

Thank you Madam Chairwoman.

I would first like to thank the Chairwoman, this Committee, and the Department of Transportation for providing leadership and essential transportation funding over the years. My state of Colorado is growing by leaps and bounds. The funding that has been provided by this Committee has made a profound impact on the development of the transportation infrastructure that is of utmost importance in sustaining a favorable economic climate and a high quality of life in Colorado as it continues to grow.

I would like to point out a couple of projects that have had particular impact on my state. The funding for the Titan Road/State Highway 85 intersection greatly improved the safety in a community that has experienced terrible accidents and deaths at this crossing, including the deaths of six teenagers in 1995. Additional projects have enhanced the economic vitality and provide increased mobility such as the multi-modal T-REX project in metro Denver, which I expect will be a model project for the rest of the nation. This Committee has also provided much needed funding to begin repairs on the Broadway Bridge in Denver, which was constructed in the 1950's and is in such a state of disrepair that it has become a safety hazard for our thousands of daily commuters.

With the Homeland Defense build-up in our country, we are facing a major fiscal challenge as we look at the priorities for fiscal year 2003 and beyond. My constituents and the entire nation are looking to this Committee to provide the necessary funds to protect those who travel our country's skies, seas, rails, and roads. I look forward to working with all of you to meet this challenge and to ensure our nation's priorities are balanced.

I would like to thank our distinguished guests for coming up here today to speak with us and I look forward to hearing their statements. I'm sorry that my good

friend Secretary Mineta was not able to join us and I'm sure we all wish him a healthy and speedy recovery. I don't want to take up anymore of the Committee's time as I have a number of questions I'd like to ask at the appropriate time.

#### HIGHWAY FUNDING

Senator MURRAY. Thank you very much. We will go ahead and move forward on questioning. Mr. Jackson, as I mentioned in my opening statement, OMB Director Daniels maintains that the law requires that DOT request cuts of more than \$8½ billion in highway investments in 2003. As I said, if those cuts get enacted it will result in a loss of over 350,000 jobs.

Your budget asks us to ignore law, and to actually change current law, in several areas. You ask us to ignore existing law and enact changes so you can eliminate communities from the Essential Air Service program. You ask us to ignore existing law and impose new, unauthorized user fees. You ask us to ignore existing law and divert Transit Formula Funds for the President's New Freedom Initiative.

If the President is concerned about jobs, and he is willing to ignore existing law in all of these other areas, why is he requesting infrastructure investment cuts of more than \$8½ billion?

Mr. JACKSON. Senator, the President's budget is \$4.4 billion below the TEA-21 estimated guaranteed obligation limitation, and that is a significant movement obviously. We believe, with Senator Shelby, that reauthorization of TEA-21 should look at mechanisms to make sure that we do not have spikes of this magnitude in the funding for this crucial program. We also understand that if you look at the historical payout, the 2003 spending will be roughly a 3-percent cut. About 27 percent of the amounts in 2003 will be outlaid in 2003, so the full effect of the reduction in the highway budget would not be felt in 2003.

We believe that the discussion on reauthorization should address the question whether to allow DOT to smooth highway funding, even in a year like 2003 when the RABA adjustment would be negative but the cumulative RABA adjustment is positive. There is this significant change in the level of highway funding, but in order to be able to meet the President's core focus on homeland security and the work that has to be done at the Department in standing up the new Transportation Security Administration, we believe overall that the mechanism, while difficult in this year, is a defensible approach to take as we start into this conversation.

Senator MURRAY. I would not disagree that reauthorization is important, but it is not going to help us in time to help 350,000 jobs, and it is a 10-percent cut in 2004, correct?

Mr. JACKSON. Yes, ma'am.

Senator MURRAY. Well, I hope we get your help, and the President's help in working with us as Chairman Byrd alluded to, to make up the shortfall. We have contracts out there, we have jobs, we have a lot of projects that are going to be really hurt if we do take this hit in this budget, so I hope we get the President's willingness to work with us.

## AMTRAK FUNDING

Let me ask you another question regarding Amtrak. In your budget, you requested that Amtrak funding be frozen at \$521 million, and your budget states that Amtrak is in need of legislative reforms. Amtrak maintains that at that level of funding they will go bankrupt. This is not news to you, I know. You sit on the Amtrak board, as Secretary Mineta does. Is the Administration planning to submit a bill to us to show us precisely what reforms you would propose that would enable Amtrak to continue operating at the subsidy level of \$521 million that you request?

Mr. JACKSON. Senator, Secretary Mineta believes, and I share this belief with great conviction, that inter-city passenger rail is an absolutely indispensable portion of our transportation network. We must have a viable inter-city rail system. We also understand that the system that we have is severely broken. There is a nuance in the President's budget, and I do not want us to miss it, so I will emphasize it. The \$521 million—billion request—million dollar, excuse me. I really fixed the problem there, didn't I.

Senator MURRAY. Thank you.

Mr. JACKSON. The \$521 million request is a placeholder so that we can allow conversation about early reauthorization to take place. We anticipate engaging with the Congress in what has been a 30-year, thorny, difficult problem to figure out how to manage this issue.

I, along with some of my colleagues from the White House and the Department, met with the Amtrak Reform Council this morning as they prepare today to release their final recommendations. We have met to review their thoughts on how to address the issues, so we know that there will be an ongoing dialogue.

Senator MURRAY. What do you mean by a placeholder? Are you going to come back and ask for more?

Mr. JACKSON. We are open to the opportunity of revisiting the Amtrak budget mark, in light of how the reauthorization debate takes place.

Senator MURRAY. You are going to come back before the subcommittee in March. At that time will you be able to identify precisely what costs you think can be eliminated from Amtrak, the cost structure, so that they can stay solvent at the \$521 million?

Mr. JACKSON. I do not believe that \$521 million is more than a relatively short-term funding level. That is what we have requested this year. Amtrak's president has stated that at this funding level they could not continue to operate the railroad with its current network, so I think our policy challenge is to figure out what we need, how much we can afford to pay, and how we are going to pay for it. We are currently looking at these issues in light of the financial information that Amtrak has made available to the public, and we have done an internal study at DOT of Amtrak financing.

The Amtrak board has retained an outside consulting firm to help them understand the cost drivers of Amtrak's system. They have offered to share some of that work with the Administration in our efforts to try to find a longer term fix to the Amtrak issue. We will be working this very aggressively. I am personally going to spend time on this, and the Secretary is, too.

Senator MURRAY. I look forward to our March discussion. Amtrak has said that they need \$1.2 billion. You are saying they need \$521 million. I think it is incumbent on the Administration to show us how they can remain solvent with \$521 million if they want to stay alive.

#### AIRPORT PASSENGER SCREENING

Let me ask you one question, Mr. Magaw, before my time is up. On February 18, you are going to assume the existing private sector contracts to do this screening at our airports. There have been some articles in the paper and stronger rumors on the street that some of these companies are seeking to take the taxpayers to the cleaners on their way out the door. Is the cost of these contracts going to greatly exceed the \$700 million estimate that you provided at the end of last year?

Mr. MAGAW. We do not believe that they will exceed that amount at this point. We are trying to continue to negotiate with the contractors so that we are ready to take the current screening contracts over on the 17th. We want to keep it fairly competitive, with as many contractors as we can. We do not anticipate us going over that amount.

Senator MURRAY. Do you have any leverage when you are negotiating these contracts?

Mr. MAGAW. As long as there is competition, we have some leverage. We are trying to take over some of the contracts as they exist, if we can.

The problem with that is since most of those contracts were negotiated, there has been a lot of security added since 9/11. We are trying to do the very best job we can of being reasonable in terms of the expenditure.

Senator MURRAY. I understand that you are not going to assume the contract of Argenbright. Is that related to the price that they were charging?

Mr. MAGAW. They have a continuing contract with the airline, so we are going to reimburse the airline, not negotiate another contract. For a short period of time in all of these issues, until we start getting our Federal force online, we are going to put a Federal person from TSA at each one of those airports the day before, or 2 days before, to watch very carefully how this takes place.

If there are any groups not doing their job, we are going to replace them. We are also starting to hire the new Federal security directors for the airports, so while that is taking place and the new screeners are being trained, the contracts will be monitored very closely.

Senator MURRAY. I know Argenbright has 40 percent of the security services at the Nation's airports. If you are not assuming their contract, are we going to have enough Federal employees by 18 February to fill those positions?

Mr. MAGAW. The employees within the company that are doing the screening are not where the problem lies. The problem lies mainly with the companies, in terms of being able to contract with them. We are going to move in and watch the people and the groups that are actually doing the screening. The patch on their shoulder is irrelevant to us, because what we are looking for is

quality work until we get the Federal screeners trained. We will not have any trained Federal screeners to put in there on February 17.

But we are going to have close oversight and we will be monitoring it. We do have a backup plan if there is a company that turns and walks, or a company that pulls their people out.

Senator MURRAY. Do you do not expect major disruptions on 18 February?

Mr. MAGAW. In any of our conversations, negotiations, whether it has been with the Deputy Secretary or myself, or the lawyers who are working on the contracts, those who have had information and worked with the airport managers are making the commitment, along with the airlines, to make this work during this changeover period, and we believe that to be the fact.

Senator MURRAY. Thank you. Senator Shelby.

#### COAST GUARD CAPITAL PLAN

Senator SHELBY. Mr. Magaw, I know you have been busy on other things, for good reason. My concern is that the Coast Guard's capital program has not been reviewed or restructured to reflect the emerging port and water security requirements identified in the past 4 months. In light of the contention that roughly 25 percent of the Coast Guard's operations will be on homeland security activities, have you at this point reviewed the Deepwater program, or have you been briefed on the Coast Guard's capital plan as it relates to homeland security, and if not, will you?

Mr. MAGAW. I will get a more in-depth briefing. The Secretary knows the in-depth answer to that question.

Mr. JACKSON. Senator, I think it is obvious that the Under Secretary must be involved in the Coast Guard's capital plan.

Senator SHELBY. I know he has been busy as heck.

Mr. JACKSON. He has, but we will give him something else to do, too. I have had several recent briefings on the Coast Guard's progress, and I am tracking that very closely. You have it nailed exactly right. About 1 percent of Coast Guard's mission focused on homeland security prior to the 11th, and then we surged to about 58 percent. We are now proposing a new normalcy level at about 22 to 25 percent of the budget.

We believe, and the Commandant has done an evaluation of this, that the fundamental platform modernization that we are doing will serve that new normalcy mission well, and that Deepwater is an essential component of making us able to meet the needs. There are other port security and improvement issues that we will take up with the Congress' help. We have \$93 million to do some port security work this year, and we are moving out aggressively to use that money wisely to strengthen work there, too.

#### AVIATION SECURITY

Senator SHELBY. Mr. Magaw, the Aviation and Transportation Security Act envisions the development of a data base to identify individuals who are suspected terrorists, and procedures to turn them over to law enforcement officials. I have read press accounts that the Department has prototype systems under development. I believe myself that information technology can be a very useful law

enforcement tool to prevent terrorists and other criminals from ever boarding the aircraft. To be effective, it will be necessary to collect personal property information that we envision.

Mr. Magaw, do you agree, though, that the personal information collected for official Government use—in other words, to protect the public—by Government contractors should not be allowed to be used for commercial purposes unless the individual grants his or her consent?

Mr. MAGAW. I do, sir. That is right. This has to be very well protected.

Senator SHELBY. Most Americans that I have talked to understand the need for security. We give up some things for security only, but not for commercial use.

Mr. MAGAW. That is right.

Senator SHELBY. And that has to be a strong proviso there.

Mr. MAGAW. That is right, yes, sir.

Senator SHELBY. Mr. Magaw, airport security—I am not picking on you. I do not want to upset Secretary Jackson.

Mr. JACKSON. I will get mine, I am certain, yes, sir.

Senator SHELBY. Mr. Magaw, you have indicated, I believe, in previous congressional testimony that it is your intention to have a training facility at each airport to facilitate the training of Transportation Security Administration personnel. Have you held any discussions with airport operators on the lease or rental agreements necessary to accommodate the TSA's use of space for training, screening, and other purposes at airport facilities?

Mr. MAGAW. We have had discussions about screening space and those kinds of things. As far as being able to tell them what kind of space we are going to need for training and our Airport Security Director, those needs are starting to be evident to us in terms of size and how much space.

Senator SHELBY. You will rent that space, will you not?

Mr. MAGAW. Absolutely.

#### REVENUE ALIGNED BUDGET AUTHORITY

Senator SHELBY. Secretary Jackson, I know you have been smothered by the Aviation Security Stabilization Act, but I would like to ask you to indulge me just a little on the practical and political impact of RABA—how do you say it?

Mr. JACKSON. RABA, yes, sir.

Senator SHELBY. RABA has been in the budget request since fiscal year 2000. First, compared to the authorized and guaranteed level of highway spending included in TEA-21 for the fiscal year 2002, the actual appropriations for highways was \$4.6 billion higher than the authorized level, what could be called a \$4.6 stimulus investment in highways. Unfortunately, neither Congress nor the Administration received the credit for that exceptional additional increase in highway spending.

The corollary to the fiscal year 2002 experience is what your budget request for 2003 portends. Just at the time when everyone is trying to reassure the American public and industry that the economy is getting better, the budget request proposes an \$8½ billion cut, a 26-percent decrease in overall highway program amount. It is hard to say anything nice about that request. I cannot imagine

that it is a request that you are over enthusiastic about defending. Can you tell us why that is the responsible, desirable level of highway investment consistent with a budget theme of economic security?

Mr. JACKSON. Senator, the President's budget tries to balance a number of very difficult budget priorities this year. We have made very significant investments that reflect the challenges that face us in a post-9/11 environment. This was one of the toughest decisions that we had to accommodate in this budget. That is a fact. But we know that over the first 5 years of the TEA-21 authorization period we have enjoyed quite a substantial addition above the guaranteed funding levels that were in the Act, and that the States have rightfully put this to good use in our highway system.

For 2003, highway funding would be \$4.4 billion below the intended mark. As I said, we are very much committed to working with the Congress during reauthorization of TEA-21 to try to smooth out authorized highway funding levels so that such swings do not occur, or that we minimize the effects of such swings. I think that we have a chance to look at the way highway funds are currently obligated and outlayed in the reauthorization debate, and we still have an opportunity to address the issue of the \$4.4 billion as it is outlayed over multiple years.

About 27 percent of highway funds are spent in the first year, around 41 percent in the next year, and then sending trails off over multiple years thereafter. So I think there is a window to take up the question, if the Congress is willing to work with us, on how we level out these issues. But for this year there are some very tough choices that had to be made in our budget. The Secretary and I fully support the President's desire to address the core objectives that he laid out in the State of the Union, and that our budget reflects.

#### FAA CAPITAL PROGRAM

Senator SHELBY. Senator Byrd has gone now. I wish he were still here, because he would be really involved with all of us on this issue.

One last question. I will be careful and quick. FAA capital program. We all understand the need there. Would you commit again, Mr. Secretary, that you will have some of your able staff to do a "soup-to-nuts" review of the FAA's capital program?

Mr. JACKSON. I will be happy to look through all of the capital program expenditures and make sure we answer any questions you may have about them.

Senator MURRAY. Senator Bond.

#### UNOBLIGATED HIGHWAY TRUST FUND BALANCES

Senator BOND. Thank you, Madam Chair, and following up on the questions that everybody else is talking about, yesterday my office was in contact with the Federal Highway Administration attempting to learn the actual amount of the unobligated funds in the Highway Trust Fund. As we look at not only the appropriations process but the pending legislation, it would be extremely helpful for us to have a ballpark figure of what the unobligated funds might be so we know what we are dealing with, with the caveat

that all the figures are not final. Is there any figure you can give us now, or could you give us in a short time?

Mr. JACKSON. Senator, I will pledge to get you the best figures we have just as quickly as we can, and we will work with your office to make sure we quickly deliver good data to you and you get everything you need to be able to take on this question.

[The information follows:]

At the end of fiscal year 2001, the Highway Account of the Highway Trust Fund had unpaid obligations in excess of its cash balance. The cash balance in the Highway Account was \$20.372 billion. Outstanding obligations subject to payment from the Highway Account were \$39.77 billion. In addition, there were \$27.299 billion in unobligated authorizations that would eventually be obligated and require payments from the Highway Account.

The comparable figures for the Mass Transit Account are: cash balance of \$7.369 billion; unpaid obligations of \$1.306 billion; and unobligated authorizations of \$29 million.

Senator BOND. Having worked on that before, we are very much interested in seeing if we cannot come to a good resolution with you and the members of this Committee and the EPW Committee on just how we can take care of this shortfall.

#### INTEGRATION OF AMERICAN AIRLINES/TWA WORK FORCE

I mentioned to you earlier our frequent conversations about the union security issues and the integration of the American Airlines employees and TWA employees in American Airlines. Given the potential disruption to the airline system, the fact that other unions are already using binding arbitration, and the fact we clearly need some kind of equitable solution to get beyond these contentious labor disputes, and I have laid out all my concerns in the past, what can the Department of Transportation do to help take care of these issues in a way that will avoid disruption and assure that all of us who fly the new American Airlines have the same good service we had in the past?

Mr. JACKSON. Senator, as you know from our conversations and from your conversations with Secretary Mineta we very much admire and respect the role that you are taking with your constituents at TWA in trying to find an equitable solution to the integration with their new colleagues from American Airlines.

The disputes in the aviation industry between labor and management have been many and protracted, and it takes too long to resolve issues of equity between the parties. Our system does not, in my personal view, well support quick resolution of these crucial issues, so I believe that we would be quite willing to have conversations with industry, labor, and Congress about what could be done to help find an equitable and fair resolution of these types of disputes.

They are not something over which that we have inherent statutory responsibility at DOT, that is the ability to go in and resolve the labor problems. The merger case between TWA and American, as you know, sir, from your work in this area, was approved by the Department of Justice, and we did not have a chance to impose conditions on the approval. So I am happy to continue to look at this issue with you. It is a very important issue.

Senator BOND. Well, we appreciate your looking at it. We have many discussions, and I know, number one, it is not an easy issue.

You may not have any explicit statutory authority. We have asked the National Aviation Board to look at it, and I appreciate your continuing to look at it, but as you continue to look at it, more and more employees with many years of seniority are being furloughed as airline traffic continues to be slow in rebounding, and I would hope that there may be some at last voluntary efforts to begin the process to encourage mediation essentially between the two employee groups.

I am sure—the company itself I know wanted to see this solved. They have a limited role in this, according to them, and if you can provide some assistance and urge some amicable settlement, because they are all going to have to be working in the same airplanes and serving the airline public, I think it would be extremely helpful, so we will continue to work with you and hope that we find some way to get everybody in the same planes agreeing on how they should be there.

#### AVIATION LOAN GUARANTEES

But I also asked you about Vanguard, and as I told the chair as we were walking along, I said, there is the cynical view of banks that a banker is one who lends you an umbrella and takes it back when it rains. Well, after September 11, we saw that rain was falling on airlines, and as far as I can tell, the ATSB has decided to give an umbrella to America West, but I do not know of any others, and Vanguard obviously, without a Federal loan guarantee, is going to be yet another casualty of the attacks on September 11.

Can you help us understand the issues at hand? We understood that one of the problems was that they really needed the loan, and that kind of fits the definition of why we set up the loan program. Maybe you can help us determine what needs to be done and what conditions you feel are appropriate before awarding such a loan.

Mr. JACKSON. Yes, Senator. I want to say at the start that the issue involves the evaluation of sensitive financial information that has been submitted.

Senator BOND. And I agree you cannot get into that. We are not going to substitute our judgment for your judgment. We just want your attention on it.

Mr. JACKSON. Yes, sir. Well, I can tell you, this one certainly has Norm Mineta's attention. It has Michael Jackson's attention as well. We have had a series of conversations about this. Vanguard has submitted two applications, and so far we have not found a formula that meets both our requirements and Vanguard's requirements under the program. But I will characterize for you what Senator Mineta's counsel is about this program.

It is our job to try to find out how to make this program work. We are not sitting in a chair just waiting for people to throw things over the transom and say, "Here is our application," and we say "Yes" or "No." That is absolutely not our approach to this issue. We had multiple rounds with America West before we approved that one.

Senator BOND. Yes. They told me it was harrowing.

Mr. JACKSON. Yes, sir, for all parties, I suspect.

Senator BOND. Yes.

Mr. JACKSON. But I think we came out with a very fair and good resolution of that one. We have told this particular applicant that we are willing to sit down and work through what is acceptable and how to structure something that is consistent with the program requirements, and then it will be Vanguard's choice as to whether or not they can meet or wish to accept those conditions. Our obligation is to work proactively and aggressively. We met with them at our office at DOT to help them understand how to approach this issue, and we will keep our door open and we remain eager to work with them.

Senator BOND. Mr. Secretary, it looks like we are going to have lots of phone time together here in the weeks and months ahead, and I appreciate your efforts. Thank you.

Mr. JACKSON. Thank you, sir.

#### HIGHWAY SAFETY PROGRAM

Senator MURRAY. Thank you. Mr. Secretary, there were over 40,000 deaths on our Nation's highways last year—that is, by the way, more than one World Trade Center incident per month—and yet your budget for the National Highway Traffic Safety Administration has increased only four one-hundredths of a percent, and while you have requested this minuscule increase for the entire agency, your detailed budget reveals that you want to cut funding for impaired driving prevention by 22 percent, cut funding for occupant protection by 14 percent, and cut funding for safety standards by 20 percent. How do you justify these reductions when automotive accidents account for more than 90 percent of all transportation fatalities?

Mr. JACKSON. Senator, we agree that the automotive fatality issue is the number one safety issue at the Department's National Highway Traffic Safety Administration (NHTSA), and Administrator Runge is working very aggressively to use our funds in an effective fashion. The "Click It or Ticket" program which you mentioned earlier is a good example. We believe that we have some significant funds to promote this type of highway safety work, and that we have an adequate pool of money to move very aggressively here.

Senator MURRAY. Have you asked to continue that in 2003?

Mr. JACKSON. I am sorry, I do not know the answer to that line item. I will have to check on that and respond to you.

[The information follows:]

The President's Fiscal Year 2003 budget for NHTSA does not propose any funding specifically for the "Click It or Ticket" initiative. However, NHTSA is planning to amend its regulations to allow the use of Section 157 innovative seat belt project allocations for advertising campaigns such as "Click It or Ticket," which was so highly successful in region IV during May of 2001.

Mr. JACKSON. It is something that we are pushing this year with the States and are very much supportive of.

Senator MURRAY. Do you want the States to fund it?

Mr. JACKSON. No. The States are natural and indispensable partners in the effort, and we are working very closely to leverage that type of partnership with State and Federal participation.

## HIGHWAY SAFETY GOALS

Senator MURRAY. You did not send up a fiscal year 2003 performance plan with the budget, as you have been doing for the last couple of years. Can you guarantee us that the Department is not planning to abandon or weaken any of the safety goals that were included in last year's performance plan?

Mr. JACKSON. We are undertaking a detailed look at all of our goals. We certainly do not intend to weaken our commitment. We intend to look at each one of them and to be able to report back to you what we plan to do, what we can do. We are going to set the bar high and try to resolve all those important safety goals.

Senator MURRAY. You are really short of your goal of 86 percent of all drivers wearing seat belts this year, and I know you did not request it, but the Committee last year did set aside \$10 million for targeted efforts to boost seat belt use in the 2002 Appropriations Bill. Your budget terminates that initiative, and then cuts NHTSA's other efforts on occupant protection by more than 14 percent. Why should we believe that you take these performance goals seriously when you present budget proposals like this one for highway safety?

Mr. JACKSON. I assure you that we will work with you on the budget proposal for this year to make certain that it is being directed to programs that will effectively meet these challenges.

## EXPLOSIVE DETECTION SYSTEMS

Senator MURRAY. Mr. Magaw, the next major deadline for the Transportation Security Administration after you assume all of the screening functions on February 18, is to screen all baggage for explosives by the end of this year. That is going to be a huge undertaking that is going to require installation of over 2,000 explosive detection machines at the Nation's airports. If you are not able to meet that deadline, what will the reason be?

Mr. MAGAW. There are four or five barriers that we are making sure we overcome. It is almost like a hurdle race. If you knock one over, then it is going to affect the others, and so right now we are concentrating on the manufacturers. There are two certified manufacturers and a third is close to being certified.

But under their normal production today, they can only produce about 300 machines, maybe less than that.

Senator MURRAY. In what time frame?

Mr. MAGAW. In the time frame we are talking about.

Senator MURRAY. By the end of this year?

Mr. MAGAW. Yes, ma'am.

Senator MURRAY. 300, and the need is 2,000?

Mr. MAGAW. The need is near 2,000.

What the Deputy Secretary and I have been doing, but the Deputy Secretary has worked mostly on this, is talking to the three companies trying to get the rights to their equipment and their production so that we can bring in some larger companies to look at the production part of it. If we can get larger companies to come in, and we are conferring with them now, to take over this production, that number can be reached. That is one hurdle. So we are still optimistic that that number can be reached.

One of my concerns, and also the Deputy's and the Secretary's, is that we have got to make sure that if we did reach this goal with the machines we have now, is there another generation hanging right back there that we need to consider as we are moving along?

The other hurdle is working with the airports, which we are doing now. How many do we believe they need, and how many do they believe they need? Some airports are going to need 60 or 65 additional machines. Many of them do not have the space for more machines, so it is going to take some reconstruction to do that.

Senator MURRAY. By the end of this year?

Mr. MAGAW. By the end of this year. The supporting of the floor also needs to be improved, because they are very heavy machines.

Then the installation cost is fairly expensive, so we have to put a package together at each airport. That is why we are dedicating a temporary Federal security person for each airport within the next week, to start coordinating contracts, union negotiations, and those kinds of things.

We believe we can still meet those requirements. The reason we cannot give you the bottom line figures on the TSA budget in either 2002 or 2003 is that we have to get through that process so that we know basically what each airport is going to cost us.

Senator MURRAY. Do you think we have a reasonable chance of meeting that goal?

Mr. MAGAW. I think we have a reasonable chance of meeting that goal. As soon as we realize, and as soon as my judgment or the Secretary's or the Deputy's changes in any way, we will make sure that you are advised immediately.

#### EDS CONTRACTS

Mr. JACKSON. Senator, I would be very happy to unpack this very crucial question a little bit more if you want, on the contracting side. As John has said, we have done some work, and I can summarize that approach.

We have issued a letter contract to the two firms that are currently certified to provide EDS machines this week. We had sent it to them. We had negotiations with them. Each had some deficiencies that they had to address prior to being able to get a contract with us, and we have a plan. We have retained MacKenzie, who has completed an evaluation of the tools that we can use—EDS machines, trace detection and others in combination with each other—to do this effectively. We are using a demonstration at Salt Lake City right now of trace detection equipment to do some explosive detection screening.

So we have looked at the technological tools that are available, we have worked with the firms to give them better sourcing data and production data about how to manufacture more reliably, and we are now going to look at the second stage procurement in which we go out and find another firm to build some portion of the whole that is needed, using intellectual property which the firms have volunteered to provide to us.

In addition, there is a third firm, Perk and Elmer, that is very close to finishing its certification cycle, and we are hopeful that they will successfully complete that. We have "baked them into the mix" as well. We are negotiating an intellectual property license

from each manufacturer that would allow us to complete the manufacture of the remaining number of machines that we need. We have a plan to work through an engineering firm that is going to be retained Nation-wide to help us assess installation problems, and we are looking for a contract to deliver, install, train, and maintain that whole equipment set. It is a very complex web of procurement issues, but we think we are proceeding systematically.

Senator MURRAY. I think it is important that you keep this Committee informed as you move through the contract process.

Mr. JACKSON. This is absolutely vital, and we are happy to meet with you on a very routine basis to keep you up to speed on this, and it is very important.

Senator MURRAY. Thank you, I look forward to your briefings to keep us regularly informed——

Mr. JACKSON. Great. We would be grateful to have your counsel and to keep you in close contact on this.

Senator MURRAY. Senator Shelby.

#### COST OF EDS EQUIPMENT

Senator SHELBY. I just want to comment. In this area, you are talking about a lot of money.

Mr. JACKSON. Yes, sir.

Senator SHELBY. A lot of money is going to be spent, and we want it spent wisely, on the right thing, and as Mr. Magaw said earlier, competition is the best thing we have going for us in trying to protect the taxpayers and get the best product.

Mr. JACKSON. Yes, sir.

Senator SHELBY. I hope you will keep that in mind in this area, because once you get through this license process, that could open up more competition.

Mr. JACKSON. Yes, sir. It is frustrating to the firms that manufacture EDS equipment, to the executives who run the airport authorities, and to me, that we have not dropped on the table the definitive solution. Because the sums are so large, and the importance to the economy is so real, we are taking the time to make coherent decisions that will get good value from taxpayers' money, and we will look at the principle of maintaining competition as a constant source of inspiration on this issue.

Senator SHELBY. Mr. Magaw, the explosive detection subject. I note the transfer of \$124 million from the FAA to TSA for procurement of explosive detection systems.

Is this the total amount of EDS procurement money, or if not, can you tell me what the total funding for explosive detection systems is in this budget?

Mr. JACKSON. Senator, slightly under \$300 million has been specifically set aside through a multiplicity of mechanisms. There is some money in the FAA budget and there was some emergency supplemental money. When you aggregate it, it comes to slightly under \$300 million. I believe the number is \$293.5 million, and that money is allowing us to launch this initial phase of EDS procurement, which is producing a ramp in the production capabilities of the certified firms so that we can complete the rest of the deliverables.

Senator SHELBY. Thank you.

Senator MURRAY. Senator Kohl, then Senator Specter.

#### GENERAL AVIATION SECURITY

Senator KOHL. Thank you, Madam Chairman.

Mr. Magaw, as part of the Aviation and Transportation Security Act, an amendment was incorporated into the bill at section 132. This section required the FAA to author a report to Congress on measures to improve general aviation security. The report concludes that it is important to develop security measures for general aviation that can be deployed singly or in appropriate combination in response to varying threat levels.

What level of threat exists today and, based on that, in your opinion, what steps need to be taken to provide an adequate level of security for general aviation?

Mr. MAGAW. General aviation stations throughout the country vary quite a bit in their security efforts. TSA needs to develop a checklist of things that will help general aviation personnel tighten their security, not only of their installation, but also the security of their aircraft and all of the other things. It is one of the many things that clearly we need to address.

The youngster who, regretfully, hit the building in Tampa should not have had access to that aircraft. We need to examine what kind of things we can build in that are not costly, that will not allow somebody other than the intended person to start an aircraft. Right now, at some general services locations, you have total freedom to walk through, and if they are busy, you can walk right out on the ramp, as well you know. So we intend to address that issue in depth, and in a few months I should have more specific answers for you.

I am in the process now of hiring the highest level of personnel for TSA, and I want to bring somebody on board that has the expertise and background to help us understand the general aviation culture at the same time we are trying to apply the security.

#### AIRPORT PASSENGER SCREENING CONTRACTS

Senator KOHL. In addition to authoring the report, section 132 required the FAA to develop and implement a security plan for larger classes of chartered aircraft defined as an aircraft upwards of 12,500 pounds, or having about 12 seats or more. What can you tell us today about the development of this plan, and will you be ready for its implementation, which I believe is scheduled within 2 weeks?

Mr. MAGAW. I have not addressed that particular plan. I know the problem, but I have not addressed the topic, and there is something we are going to be doing in 2 weeks that I am not aware of.

Mr. JACKSON. I think the Senator may be talking about the 2-week implementation of our takeover of the security screening contracts.

Mr. MAGAW. At the airports, oh. I misunderstood. I am sorry, sir. Yes, on the 17th we are prepared to take over the screening contracts. They will not be Federal personnel at that point, other than a person that we are sending to each airport to oversee the screening process, work with the airlines, and work with the contractors.

At the same time, we are starting to hire the Federal security screeners to take their place, and we will be monitoring every location in the country very closely. As quickly as we can recruit and train nearly 28,000 to 30,000 screeners, we will do so.

#### GENERAL AVIATION SECURITY

Senator KOHL. I appreciate that. I was referring to general aviation, that we needed a plan for the larger general aviation aircraft, those with 12 seats or more.

Mr. JACKSON. We have submitted a 60-day plan that outlines the basic approach to general aviation. In addition, FAA has imposed some security directives that tighten up the security measures that have to be in place specifically, as you addressed, Senator, for aircraft 12,500 pounds or more.

For example, aircraft operating out of a commercial airport have to meet the same safety rules that are in place for commercial flights. For those departures, we require an approved security director to review the security plan for larger aircraft. There is an inspection protocol, a manifest listing, and a series of FAA security directives, some of which are public and some of which are confidential and conveyed to airport security and airline operators.

So we have done something there. I think what you are hearing from the Under Secretary is that all of us believe this is an area that we do not yet have as good an approach as we want to have. It is a very large system, 19,000 plus airports around the country, and we know that this needs more work. John is committed to bringing in a team of people to look at this in more detail.

FAA currently has folks working on this issue. I have been involved with the Homeland Security Council on efforts to try to tighten up general aviation security. After the incident in Florida that the Under Secretary mentioned, we sent out a security directive and security notice to general aviation airports talking about the particular set of problems that we had found in that incident, and offering some counsel about how to strengthen security.

So it is not an area where I would say that we feel comfortable that we have done everything that needs to be done. It is an important area that we will continue to work on and look at. The industry has helped us try to understand approaches that might be successful, and we are going to continue to engage on this one.

Senator KOHL. Okay, and I thank you. I know how much stress you are under and how much work you have to do, so I am not suggesting you are not working 24 hours a day, 7 days a week on your problem.

I would just comment with respect to the general aviation airports, I fly in and out of them occasionally, and it is apparent to me, as it is to you, that the level of security is pretty low, in some cases fairly nonexistent. The aircraft in those airports are as able to do mayhem as many of the aircraft that are in our larger airports around the country which are under your control, and it seems to me until you get a handle on that problem, it is hard to assert to the American public that in fact we are dealing with the problems of airplanes.

The airplanes flying out of small airports, general aviation kinds of activity, are as dangerous as any other airplane, and I am very

fearful that something terrible will happen and we will all be caught unawares again, and we will be embarrassed, humiliated, as well as terribly disappointed with what happens, and I think to some extent you are sitting on a ticking time bomb.

Mr. MAGAW. We will address that issue in depth, Senator.

Senator KOHL. Thank you. Thank you, Madam Chairman.

Senator MURRAY. Senator Specter.

Senator SPECTER. Thank you, Madam Chairman.

#### EXPLOSIVE DETECTION SYSTEMS

The budget for the Department of Transportation has always been important, but as we look to next year, it is even more important than ever. I think it ranks right up there with Defense, and Health, Human Services, and Education, and it is going to be a tough job finding enough dollars to go around for all of the needs which are presented here.

Mr. Magaw, I visited the Philadelphia International Airport this past Monday, and there is an urgent need for these new explosive detection machines. I am told that the international airport will require 14 machines at a cost of \$42 million, and they need to move them now, because they are having a new terminal that costs about \$475 million, so they will not have to retrofit. As I hear the testimony today, about \$300 million is available Nation-wide. How will we meet the mandate for these explosive detection machines to be in place by the end of the year, considering the tremendous need and the limitation of funds?

Mr. MAGAW. The funds that you see both in 2002 and 2003 clearly are not going to cover the costs. The President has said that once we get the requirements analyzed and know what the cost is, then he is going to support this effort. I take that in good faith and move forward. The Philadelphia Airport, as well as the other airports, is very important, and we will have a person in there next week to start dealing with the airport manager and all those who know what the problems are to develop a plan to get that airport the machines and construction it needs.

Senator SPECTER. Well, I am pleased to hear that, and there is enormous concern over airport security, and I am glad to see the President's commitment and your commitment to get that done.

#### MAGLEV AND HIGH-SPEED RAIL

MAGLEV, I think, is going to be the wave of the future, something that I have been working on now in my 22nd year, since I got here. I thought that was really the kind of visionary item which we really had to have. Flying from Pittsburgh to Philadelphia with regularity, it is an enormous difficulty with the waits on the tarmac and the weather, et cetera. With MAGLEV, we will be able to go from Philadelphia to Pittsburgh in 2 hours and 7 minutes, with intermediate stops in Lancaster, Harrisburg, Altoona, Johnstown, and Greensburg, and I am looking forward to the day when we have a MAGLEV system which runs from Boston to Richmond, and perhaps to Miami, and New York to Chicago.

It is my hope that we will develop a real national constituency for MAGLEV, and there is concern from the westerners that the competition between Western Pennsylvania and Baltimore to DC

has an eastern tilt, and I think they do have a point, but what we have to do is get the national constituency. There can be a line from Orange County, California to Las Vegas.

We are prepared for the competition. Baltimore to Washington is a line I know very well. I am there all the time en route to and from Philadelphia. You have Metroliner and you have ACELA, and you have the parkways, where if you contrast getting from Greensburg, Pennsylvania, to the Pittsburgh International Airport, all you have is bottlenecks. You do not have any way to go.

Governor Ridge, Senator Santorum and I convened a meeting in Pittsburgh, and Governor Schweiker has taken over with real community spirit, and a very hardworking consortium of steelworkers and U.S. Steel and other companies to put that together. It would be my hope that we could structure thinking about some of that on the Environment and Public Works Committee, where we may be able to tap into TEA-21 and figure out some way to get additional funding.

I would be interested in your views, Secretary Jackson, as to your vision for MAGLEV, and how important do you think it is in looking to really increase transportation and economic development into the 21st Century.

Mr. JACKSON. Senator, I believe that high-speed rail and MAGLEV are very important things to evaluate as we think about the future of inter-city passenger rail. Moving along at 40 miles an hour does not get the job done in terms of meeting the transportation needs of this country for the future. We are going to have to take up the Amtrak reauthorization, high-speed rail, and MAGLEV issues in concert with each other to try to sort out these priorities and to figure out what we need, how we can afford to pay for it, and what to do. So I look forward to working with you on those issues.

Senator SPECTER. Well, I am glad to hear you mention Amtrak. I recall one of the first meetings I attended in Senator Baker's office in 1981. David Stockman, Director of OMB, had zeroed out Amtrak, and it is just indispensable.

I said we would have a clog of the Baltimore Tunnel, and National Airport would be overrun if we did not have the line running from New York to Washington, and David Stockman said, "Well, that is a prosperous line." The trustee in bankruptcy would sell that off in no time, and I said, "All of the locomotives would be rusted shut by the time the trustee in bankruptcy got around to it," but we have maintained that battle, and I think we are surviving, but we have to keep it going.

#### HIGHWAY FUNDING

I am very much concerned about the reduction in the Federal Highway Administration, some \$9.2 billion, because of a decline in the fuel tax and other trust fund receipts. Here again, we are looking in the Environment and Public Works Committee, where I also serve, at a mechanism which might be able to utilize the Highway Trust Fund to make up some of that shortfall. Do you think that is realistic, Secretary Jackson?

Mr. JACKSON. We welcome the opportunity to listen and talk with you as you look at these mechanisms. What I said to Senator

Shelby earlier was that the variability in highway funding under the existing TEA-21 program creates a vulnerability for highway infrastructure. So we look forward, particularly in the reauthorization discussion, to developing a means level out these spikes in the funding.

#### TRANSPORTATION PRIORITIES IN PENNSYLVANIA

Senator SPECTER. In the limited time I have, I cannot go through all the priorities my State has, but we lean very, very heavily—we get support from Chairman Murray and Chairman Shelby, when he had been the Chairman, but as I look over the list here, we have a project called the SEPTA Schuylkill Valley Metro, which ties into the Job Access and Reverse Commute program, which is in at \$1.9 billion. It will take people from Center City Philadelphia, where there are no jobs, out along the industrial corridor as far as Reading through Montgomery County, and that is an enormously important program.

Now, the Administration has put in a request for \$26.3 million for the Pittsburgh Stage II light rail, and we are looking at the Pittsburgh North Shore Connector, where we need to move people from center city Pittsburgh to the two new stadiums which have been constructed in Pittsburgh.

Every time you turn around, there is an indispensable ingredient that comes out of the Department of Transportation budget, to be able to keep up with employment needs or economic development needs, so we have the Harrisburg Corridor One Project, which is a very important 30-mile regional light rail system to take the pressure off the highways, and there is enormous interest in a Scranton to New York City rail service, where we have gotten starter money of \$1 million, and \$200,000 to see if Wilkes-Barre can connect to it, so I mention those items because it underscores the importance as to your Department and how we are going to handle the funding.

#### AIRPORT PASSENGER SCREENING CONTRACTS

I am glad to see, Secretary Magaw, that Argenbright is not going to be security-company-contracted-with, as I understand it. Is that so?

Mr. MAGAW. You cannot answer that yes or no. Let me explain. We are reimbursing the airlines any security costs in the initial days. Argenbright will keep the contract they have with the airlines for the temporary future, and we will reimburse the airlines. We will contract with them. We are going to move that company out as quick as we can in terms of moving our Federal force in.

Senator SPECTER. Well, I am glad to hear that you are moving them out. They were under criminal prosecution, probation, have violated probation out of the Philadelphia Federal court, so that I am glad to hear you will keep a sharp eye, because that is very, very important.

Mr. JACKSON. We would expect those contracts to be concluded in a matter of weeks after the switch-over date.

Senator SPECTER. Well, give Secretary Mineta our best wishes for recovery, and Mr. Magaw, are you enjoying your job?

Mr. MAGAW. Very busy, and enjoying it. I am challenged by it, and I am delighted—most Americans after 9/11 want to serve, and that is the way I feel.

Senator SPECTER. Well, I am glad to see you in it. I expected you to be confirmed on December 20. They had that hurry-up hearing in the Commerce Committee, and we had a little discussion, you and I, and I thought you were going to be included in wrap-up that night, so I am glad the President made an interim appointment. That is one interim appointment that has not caused any controversy. It is nice to have you.

Mr. MAGAW. And I appreciate the Senate voting on it quickly after you came back.

Senator SPECTER. Well, we are glad to see you on that job. You have got a big, big job to do, and we are going to support you.

Mr. MAGAW. Thank you.

Senator SPECTER. Thank you, Mr. Jackson and Mr. Magaw. Thank you, Madam Chairman.

Senator MURRAY. Thank you.

Mr. Magaw, I am confused by your answer to Senator Specter on the federalization of our security force. If we are just simply paying the airlines who are continuing those contracts, how does that satisfy the requirement that we are federalizing the security screeners?

Mr. MAGAW. Well, the contract is being reimbursed to the airlines, but we are having people on the scene right there, taking over supervision of the screening function.

Senator MURRAY. So it is not federalizing the workers, it is just having somebody on-site overseeing.

Mr. MAGAW. Well, that is why I wanted to explain what was happening so there was no—

Mr. JACKSON. We are federalizing all the workers. It is a phased-in implementation, so Argenbright will be out of this process quickly. All of the third-party contractors will, by the 1-year statutory deadline, be gone from the system, and everybody will be a Federal employee.

In fact, we intend to phase this in at a cluster of airports, and then at roughly 25 per week. Thereafter, we will have a full Federal team in place, and as John said, starting immediately we will have a supervisory team at each airport. At a larger airport they will be larger in number; in a small airport it could be just one.

Senator MURRAY. I am confused because what you are telling me is you will have Federal supervisors in place, but you are still going to be paying the airlines, therefore the airlines are going to be responsible.

Mr. JACKSON. I am sorry, John. I will address the contracting issue.

Here is how we are handling the switchover in the middle of this month. We have negotiated and are completing this week, so-called IDIQ—indefinite delivery, indefinite quantity, I think. I am acronym-limited here, but it is basically a bulk purchasing contract with those firms who provide security-screening at existing locations around the country.

In the case of Argenbright, we have decided not to sign a bulk purchasing contract with that firm, and we have in place a tem-

porary transitional tool to allow us to be able to put third-party screeners in place at each of the airports that Argenbright currently, serves. They have about 35 airports that they serve, and then we will switch that over to a full Federal force as part of the normal implementation.

Senator MURRAY. Who is paying the screeners? Is it the airlines, or is it the Federal Government?

Mr. JACKSON. The Federal Government pays the bulk contracts with everyone in the transition. They will work for us; they will meet new contract requirements; they will have to have our new screening training requirements in place; and they will meet the technical, educational and all other requirements of the statute. So we own the job.

Senator MURRAY. Is that the case for Argenbright, too?

Mr. JACKSON. No, it is not, because we do not intend to employ Argenbright.

Senator MURRAY. So in the case of Argenbright's contracts that you are not going to assume, will you be paying the airlines, and the airlines will be responsible.

Mr. JACKSON. The airlines will continue for a few weeks after, in some cases but not in all cases, to operate with Argenbright under their existing contract. So after the 17th, for the couple of weeks necessary, in some instances, to make a transition to a different firm, the airlines' existing contract with Argenbright will remain in place and we will supervise the airline. They will work for us. We will manage the contract through the airlines for a short period of a few weeks.

Senator MURRAY. Thank you. Let me go to another rule that is causing a lot of distress.

Mr. JACKSON. Senator, I might just say, we are barred from doing business with them, and that is a decision that we agree with. This contracting mechanism honors the Federal debarment rules.

Senator MURRAY. I just wanted to make sure we all understand what is happening.

Mr. JACKSON. Exactly.

#### AIRPORT PARKING RESTRICTIONS

Senator MURRAY. Let me ask you another question that is causing a lot of distress at a lot of our smaller airports, and that is the 300-foot rule. I think you heard about this at the Senate Commerce Committee yesterday and said you were going to inject some common sense.

The act provided that some of these airports could gain relief from your rule after they put forward some measures to you, and a number of airports have done that and have been denied respite. We have small airports who have no parking whatsoever any more because of the 300-foot rule simply eliminating all of their parking. We have many airports, small airports who have no handicap parking, and the airports in my State just do not see why they are burdened with this requirement when, you know, a suicide bomber can drive right up to the terminal if they want to. They just cannot park there.

What do you mean by common sense, and how soon are our small airports going to see this?

Mr. JACKSON. This is an issue that has been difficult to grapple with, and I want to try to give you some numbers to put it into context.

First of all, the smallest category of airport, category 4, was exempted at the outset from this rule, so we are talking about category X, 1, 2, and 3. Of those airports, we have allowed for a voluntary application for relief from the rule and amendments to the rule, and for tailoring the rule to each particular airport. Of the 168 that have been submitted, 157 have been approved for amendments and changes to the 300-foot rule. We have 10 that have not been approved. We are still open to those 10.

I know of one that a Member of Congress called me about this week. We are going back to work with the airport director and figure out how to put together appropriate blast zone protection that is meaningful for that airport.

Here is the punch line, Senator. If one of them has a problem, we want to help them fix it. This is not intended to be an arbitrary, capricious, or unreasonable requirement. It is meant to protect life from people who park a bomb, walk away from their car, and cause a large loss of life. We have to be reasonable. It does not make any sense to have people parking in a cow pasture and walking to the airport, so we are very willing and eager to work with airports to try to do this in a reasonable fashion.

Senator MURRAY. I understand it has been difficult to implement.

Mr. JACKSON. It is a thorny issue, and we will keep whacking at it.

Senator MURRAY. I appreciate that.

#### NAVIGATION USER FEE

In my region of the country, the ports are one of the biggest suppliers of well-paying jobs. Your budget is asking us to impose a new user navigation fee to be paid by ships that are transiting U.S. waters. With that fee, you are expecting to collect \$165 million next year and over \$300 million in 2004. Mr. Jackson, won't that fee only increase the likelihood that ships are going to call on ports in Canada and Mexico instead of U.S. ports?

Mr. JACKSON. We hope not and we think not, and we will come back to you with a precise legislative recommendation from the Administration so that we can give meat on the bones of this proposal.

We recognize that there have been proposals submitted in the past for user fees to help offset various transportation needs that have not been accepted by the Congress and not been adopted. We also recognize that, following the events of 9/11, that the Congress very much proactively reached to include some very significant user fees in the aviation world. We hope that to meet some of the enormous costs of providing for homeland security in other modes, the Congress would be willing to engage in a dialogue with us as to whether user fees are appropriate. We recognize that we have to meet the needs of commerce and promote the efficient flow of freight and passengers through the country, so we will submit a proposal for you.

Senator MURRAY. You need to know that it is highly competitive on the West Coast market. Any increased costs for ships coming into our ports will simply mean that they will divert to Canada and Mexico, so we have to be very careful when it comes to these kinds of user fees in that competitive of a market.

#### CARGO SECURITY

Mr. Magaw, I think it is important when you impose a new security cargo regime, that you guarantee that the cargo that crosses the U.S. or Mexican border will be subject to the exact same procedures as cargo entering through the U.S. ports as well, otherwise we are going to deal them another competitive blow.

#### PIPELINE SECURITY

On the area of pipeline security, the National Security Council has identified our Nation's 2.1 million miles of pipeline as potential targets for terrorism. An attack on pipelines that carry natural gas, or petroleum, or hazardous materials could result in a standstill at our Nation's ports and highways, not to mention, of course, a significant cost to life. Can you tell me what, if anything, RSPA has proposed in the budget to ensure the safety of our Nation's pipelines, and hazardous materials?

Mr. JACKSON. Senator, I am going to have to look at the budget detail on the RSPA pipeline safety, and I would be happy to get back to you.

Senator MURRAY. Can tell me if any of the \$4.8 billion in the TSA goes for that as well, I would appreciate that.

Mr. JACKSON. Yes, ma'am.

[The information follows:]

The President's Fiscal Year 2003 budget for RSPA does not propose any funding specifically for pipeline security. However, RSPA is using resources made available for pipeline safety to ensure the security of pipelines to the maximum extent possible. For example, RSPA is working with the Department of Energy and the Federal Bureau of Investigation to distribute security information and threat warnings to pipeline operators; securing critical infrastructure mapping information through a password protection system; working with the pipeline industry to assess vulnerabilities; developing and implementing protection measures for pipeline facilities; implementing a coordinated set of protocols that would be used during inspections to confirm the adequacy of operators' security practices at critical facilities; and, developing plans to improve response and recovery preparedness.

None of the funds proposed in the fiscal year 2003 budget for the Transportation Security Administration would be used for pipeline security.

#### MOTOR CARRIER SAFETY

Senator MURRAY. Mexican trucks, I know your favorite issue, Mr. Jackson. The Inspector General is close to completing his review of the implementation of your plans for opening the border to Mexican trucks, and we are going to hold a hearing with the IG and Secretary Mineta. Up to this point, can you tell us quickly how adequately the Federal Motor Carrier Safety Administration is implementing the safety requirements that we included in the Appropriations Bill last year?

Mr. JACKSON. Yes, ma'am. We are on track to honor and meet all of the requirements of the statute, and this includes the regulatory work which we owe the Congress and the public on this mat-

ter, and a plan for hiring and well-training the individuals who are necessary to do this inspection work. The week before last, the Federal Motor Carrier Safety Administrator, Joe Clapp, traveled to Mexico City and had an extensive meeting with his Mexican counterparts to review detailed plans. The Secretary has also reviewed a detailed chart of tasks and deliverables that would meet the requirements.

We are not going to open the U.S.-Mexico border to provide operating authority to any carrier until we have done the job. We think we are on track to do that by early summer. I am actually traveling with Administrator Clapp tonight to Atlanta to meet with my counterparts from the Mexican Government, from two departments, to review the issues and to make certain that both Governments are working cooperatively and effectively in this area.

Senator MURRAY. It is, my understanding that one of the challenges you face is adequate space at the border so that unsafe trucks can be put out of service. Is that the biggest challenge, or are there others?

Mr. JACKSON. No, I think that we have that one under control. We approached the GSA Administrator and asked him to devote some resources to help us identify some excess Federal space that we could surface, and they have been very helpful. Over the long haul it would be desirable for us to have more complete and permanent facilities to accomplish this mission, but we will, in future budgets, come back to talk to you about some of the more comprehensive build-out needs. To do the job that we have been given, we will have to have space available to park them. If necessary, we will have them towed back across the border until they get them properly fixed, and able to travel on our roads.

Senator MURRAY. It is one of the requirements we put in the bill, and I want to stay in close touch with you as we work through this. We are going to have a hearing on it, but if you could let us know what you are seeing—

Mr. JACKSON. I would be happy, at whatever time is convenient, to make sure that you get detailed briefings on the implementation plan for this. I know that Administrator Clapp would be delighted to work with you and your staff on that one.

Senator MURRAY. Very good.

#### PROPOSED BORDER CONTROL AGENCY

Mr. Jackson, let me ask you about one of the proposals that we are hearing out of the Office of Homeland Security to merge all the Coast Guard into a new border control agency. Is that officially dead within the Administration, or is that still an active proposal?

Mr. JACKSON. It would be premature for me to speculate about work that is ongoing in the Administration prior to the President making any decision on this. I will say that it has been a hallmark of his instructions to all of the Departments and agencies, from the beginning of the post September 11 period, to look at how we can make the border operate more effectively for our passengers and freight, for security and efficiency. It has been an ongoing topic.

Senator MURRAY. Do you think it is wise to sever the Coast Guard from the Department of Transportation?

Mr. JACKSON. I would not speculate on those policy issues for you here, and I would defer to my President to allow his Cabinet to continue that discussion. When he makes any decision in that arena I would be delighted to come back and talk to you about it.

Senator MURRAY. I will not pin you down on that.

Mr. JACKSON. Thank you. I appreciate it.

#### TRANSPORTATION SECURITY ADMINISTRATION BUDGET

Senator MURRAY. Mr. Magaw, when you were in my office, I asked whether the Transportation Security Administration would be providing a fully justified budget request to the Committee. Your Deputy, Mr. McHale, said that you would, so I was a little surprised to see you submit only a seven-page document to defend a request of \$4.8 billion. When do you expect to have a fully justified budget submitted to this Committee?

Mr. MAGAW. I believe that we can do it, Madam Chairman, in 60 to 90 days. The surveys at each airport are going to take some time, and until we get some reasonable numbers from the airports, we are only going to be——

Senator MURRAY. 60 to 90 days is going to be hitting us right when we are marking up. We are going to need some time to review your request. I really urge you to get that to us quickly. I know it is a big task, but we are going to be marking up probably in the middle of May, and we will need some time to go through your request, so I urge you to get it to us as quickly as you can.

Mr. MAGAW. All right.

Senator MURRAY. I understand you are going to need a supplemental appropriation?

Mr. MAGAW. We are going to need money from somewhere, and the President has said that the Administration will support this program. But I am not at liberty to talk about a supplemental or anything like that.

Senator MURRAY. Are you asking everybody to put their wallets out there?

Mr. MAGAW. I know.

Senator MURRAY. We only have a few places we can look.

Mr. MAGAW. I know. That is why it is so important, as you say, that we get some accurate figures, or reasonably accurate figures to you for construction costs, for installation charges, for the cost of machines, and for transporting them there.

Senator MURRAY. I know the deadlines are approaching fast. I know we need to get out an Appropriations Bill. If there is going to be a Supplemental, we need to know what that is, what the costs are, and again, I know you are working under intense deadlines, but if we are going to have the funds for TSA, looking at the other challenges we have, we have got to get a handle on this quickly.

Mr. JACKSON. Senator, I can comment. We have two challenges as you have just identified. We have a 2002 challenge and a 2003 challenge. On the 2003 challenge, as we flesh out the approach that we would take to filling in the \$4.8 billion, we would be happy to give you an interim report so that we do not wait until the last minute and drop something on you. I would welcome the chance, as we go along.

This is something that is unprecedented for us and for you, I recognize, and we do not want to create more difficulty for the Committee than need be in this case. So as we work our way through this, we want to just stay in close contact with you. We will tell you what we know and what we do not know, and when we get to a problem we do not know how to solve, we will tell you that, too. We will figure it out and keep in close touch.

Senator MURRAY. I appreciate that.

#### TSA ASSOCIATE UNDER SECRETARIES

Mr. Magaw, in recent briefing documents you provided to this Committee it was not clear whether you expected to have separate Associate Under Secretaries for Maritime Security, Rail Security, and Motor Carrier Security. Have you made a decision on that yet?

Mr. MAGAW. I have made an initial decision that our first high-ranking person will be maritime and land. I am now trying to recruit an outstanding individual from the trucking industry who will be able to come in and pay full attention to that industry. The same thing with the railroads. So the highest-ranking position in the box that you have seen on the chart basically says maritime and land security.

We are recruiting and looking at a couple of Coast Guard admirals to oversee maritime security. At the same time, we want to have people within that box who are from the other modes. It is my judgment that the box is going to split fairly quickly, because there is going to be a quick need for the other areas to be addressed in more detail. That is my intention, and I know that—the Deputy and I have talked about it—it has not been approved, but my intention is to split the box. Do you have this copy?

Senator MURRAY. Our staff has it.

Mr. MAGAW. Okay. And so while all of maritime and land appears to be in one box right now, and it is, we are going to have representatives from every mode in that office who will pay attention to their specific area of expertise. They will not only keep the Committee advised, but also give full attention on their particular mode. As the aviation and other deadlines are moving by, we are not sitting idle in general aviation, and we are not sitting idle in railroad or any of the other modes.

Senator MURRAY. We will be interested in working with you to do that. I am curious as to how they are going to interface together and who is going to be really in charge of security in each of the modes, and how maritime is going to work with Coast Guard, so we will have more conversations on these issues.

#### NATIONAL DISTRESS AND RESPONSE SYSTEM

Let me ask you a question about the Coast Guard, Mr. Jackson. The IG issued a report on the Coast Guard's distress awareness system a week ago. Your Department has now placed this project on a high-risk watch list. Due to extraordinary cost overruns, the Coast Guard has now eliminated the requirement that the system be capable of pinpointing the exact location of distress calls. Even at the lower cost, the Coast Guard's projected capital needs still exceed OMB's funding targets by more than \$300 million annually.

Do you think that the Coast Guard has dumbed down the system's capabilities to the point that mariners in distress will be at risk?

Mr. JACKSON. No, I do not think that we have dumbed it down, nor will we. I do believe this is an important priority that we have not yet got our arms around in terms of the program being fully implemented and moving forward. It is an important commitment, and it is one that we will have some ongoing oversight conversations with you about in this area.

Senator MURRAY. Of course, you know it is a high priority for me, so I want to make sure——

Mr. JACKSON. Good. It is a high priority for the Secretary as well.

Senator MURRAY. The 2002 Appropriations Act does not allow the Deepwater procurement to go forward unless DOT and OMB certify in writing that adequate funding will be requested for the new distress system of the Deepwater program and essential search and rescue procurements. Is that the reason why we have not received the certification, due to the uncertain costs?

#### SUBCOMMITTEE RECESS

Senator MURRAY. I have no further questions. This subcommittee stands in recess until Thursday, February 14, when we will take testimony on the U.S. Coast Guard.

[Whereupon, at 12:05 p.m., Thursday, February 7, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, February 14.]

**DEPARTMENT OF TRANSPORTATION AND RE-  
LATED AGENCIES APPROPRIATIONS FOR  
FISCAL YEAR 2003**

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**THURSDAY, FEBRUARY 14, 2002**

U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.*

The subcommittee met at 10:05 a.m., in room SD-124, Dirksen Senate Office Building, Hon. Patty Murray (chairman) presiding.  
Present: Senators Murray, Mikulski, Shelby, and Stevens.

**DEPARTMENT OF TRANSPORTATION**

**U.S. COAST GUARD**

**STATEMENT OF ADMIRAL JAMES M. LOY, COMMANDANT**

**ACCOMPANIED BY HON. KENNETH M. MEAD, INSPECTOR GENERAL**

**OPENING STATEMENT OF SENATOR PATTY MURRAY**

Senator MURRAY. The subcommittee will come to order. Today the subcommittee will hear testimony on the Coast Guard's budget request for fiscal year 2003. We are pleased today to be joined by the Department of Transportation Inspector General Kenneth Mead, and we also want to welcome our Coast Guard Commandant, Admiral James Loy.

Today is likely to be Admiral Loy's last appearance before this committee, as his 4-year term comes to a close this May, so Admiral, on behalf of all of us on this subcommittee I want to thank you for your over 40 years of excellent service to this country.

**FISCAL YEAR 2003 FUNDING CHALLENGES**

During our hearing with Deputy Secretary Jackson last week, I pointed out that the subcommittee will face extraordinary challenges in financing a balanced Transportation bill this year. The President has proposed a \$9 billion cut in highway spending. Amtrak is near bankruptcy, and the funding requirements of the new Transportation Security Administration are expected to grow by more than 250 percent to \$4.8 billion.

**COAST GUARD FUNDING**

With this backdrop, the administration has also requested an increase in the Coast Guard budget of almost 20 percent. There is no question that the Coast Guard is in a period of rapid change,

coming on the heels of our national tragedy. In some ways this period is similar to the aftermath of the EXXON-VALDEZ tragedy in 1989. As we attempt to respond to the tragedy of September 11, it is clear that we must do more to protect our country from terrorist attacks. This is especially true when you reflect on how vulnerable our port communities are to further attack.

At the same time, we must not allow the events of September 11 to divert the Coast Guard away from their other core responsibilities that loomed so large on September 10. The administration has requested the largest increase in Coast Guard spending in history, but I think it is important for us to ask what we are getting if we are successful in fully funding the administration's request, if we are successful in providing this historic funding increase, the Coast Guard's level of increase at fisheries enforcement will barely increase at all over this year's level. In fact, their level of effort will still be well below their level of effort from 3 years ago. This comes at the same time when the Coast Guard has again failed to meet its performance goal for keeping illegal foreign fishing vessels out of U.S. waters.

If we are successful in providing this historic funding increase, the amount of cutter hours, aircraft hours, and boat hours devoted to marine environmental protection will actually go down from the level expected for the current year. If we are successful in providing this historic funding increase, we will not see any substantial increase in the Coast Guard's level of effort at drug interdiction. In fact, their level of effort will still be 25 percent below where it was 3 years ago, and here again this plan is presented to us at the same time that the Coast Guard has failed to meet its performance goal for seizing illegal drugs.

As much as I want the Coast Guard to respond fully to all of our homeland security needs, the fact is, massive amounts of funding are also being provided for this function to the Department of Defense, to the intelligence agencies, and to the Transportation Security Administration, the DOT agency that is supposed to be responsible for security in all transportation modes. We are even told the Department of Defense will soon be appointing its own Commander in Chief, or CINC, for Homeland Defense.

#### COAST GUARD TRADITIONAL MISSIONS

One thing I do know is, we cannot depend upon the Department of Defense or Transportation Security Administration to conduct fisheries patrols. We cannot depend upon them to inspect oil tankers or respond to an oil spill. The Navy's level of effort in maritime drug interdiction is driven largely by whether they have ships available. And even when they do conduct drug patrols, they generally require Coast Guard law enforcement detachments on board to actually inspect and prosecute suspect vessels.

The tension between Homeland Security and the Coast Guard's traditional missions is perhaps starkest in my area of the country. Puget Sound has many critical Department of Defense installations, and we are proud of all of them. Immediately after September 11, Coast Guard vessels traditionally used for search and rescue were diverted to establish a 24-hour security zone around those facilities and to escort Navy ships.

In my home State of Washington, this shift came at a time of unprecedented marine casualties, where 17 recreational boaters were killed in boating accidents during the months of August and September alone. While I do not know if any of these deaths were linked to the reprogram of Coast Guard small boats, I do know that search and rescue must remain a primary and focused mission of the Coast Guard. It took months for those search and rescue boats to return to their normal stations. Only after I petitioned the Commander in Chief for the Pacific Fleet, Admiral Fargo, did the Navy expend its own efforts to guard its own assets.

#### COAST GUARD'S HOMELAND SECURITY ROLE

When the President submitted his supplemental request for the Coast Guard, I doubled the amount of funding requested for Marine Safety and Security Teams so that the Puget Sound could have its own Coast Guard unit to prosecute this mission without diverting other Coast Guard units from their traditional missions.

No one wants to see the needs of the Coast Guard fully met more than I do. When I think of the needs of the Coast Guard, I do not think of Washington, D.C., I think of the seamen and petty officers in Washington State. They deserve the best equipment and best training that we can give them. They also deserve a humane work week so they can conduct all their missions with excellence, not exhaustion, and so as we once again expend the Coast Guard's efforts in a critically important mission, I intend to make sure that it is not done entirely on the backs of the hard-working Coast Guard members in the field, and I also intend to make sure that the expansion of this mission is in balance with the continuing needs of all other missions, and that all the appropriate Federal agencies pay their fair share of the cost.

I will turn to Senator Shelby for his opening statement.

#### STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you, Madam Chairman, and again, welcome, Inspector General Mead and Admiral Loy, and Admiral Loy for what may be, as the Chairwoman said, your final appearance before this subcommittee. Admiral Loy, I do not want to miss this opportunity to acknowledge your contributions to and your stewardship of the Coast Guard. You are to be commended for your service to the Coast Guard, Admiral, and to this Nation.

While we have not always agreed on tactics, priorities, or the best way to accomplish the mission, we have always agreed, sir, on the way to accomplish, always agreed on the need to support the various missions of the Coast Guard, the need to recapitalize the Coast Guard's asset base, and to make the Coast Guard a meaningful and attractive career choice for young Americans.

#### NATIONAL DISTRESS SYSTEM

While we have agreed on many, if not most issues facing the Coast Guard, we do have healthy differences on how to address some of those challenges. I would like to spend just a few minutes on some of those differences. I am concerned that the Coast Guard is trading away capability and coverage in the national distress

system modernization program in order to trim costs after receiving contractor estimates that were three times Coast Guard projections.

The promise of this modernization was the capability to precisely locate a boater in distress. Unfortunately, the Coast Guard seems willing to trade that capability away and settle for just knowing in what direction the distressed mariner is in. On top of that, the Coast Guard's own capital budget does not appear to fully fund even this less capable system. My staff tells me that this procurement appears to be underfunded by at least \$110 million.

If we are going to do this modernization, and I believe we must, Admiral, why would we buy a system that has coverage gaps and dumbs down capabilities? Why would we want to give up on that critical 911 life-saving feature when time is of the essence in an emergency situation? Local police and fire officials have had that capability since the seventies. Time has long passed for the Coast Guard to have this capability as well.

The Inspector General's recent report on National Distress System modernization concludes that we should develop a firm plan before contract award. This is good advice, and the Coast Guard should not delay in developing that plan. Unfortunately, the National Distress System modernization system problems are a piece of cake compared to the Integrated Deepwater System procurement.

#### INTEGRATED DEEPWATER PROCUREMENT

For 4 years this subcommittee has expressed concern about the risk inherent in the Coast Guard's big bang procurement strategy for Deepwater. We have questioned the affordability, the procurement risk, the lack of exit strategies, the Coast Guard's blind eye to changing circumstances, and the impact that Deepwater's funding has on other capital investments the Coast Guard must make to maintain its capital plan, and we are at this critical point just at the time when the administration is saying we have to do more for Homeland Security, when the Congress is saying we cannot neglect other missions, including Search and Rescue and Fisheries Enforcement, and when the Inspector General is saying that the National Distress System modernization is in danger of being underfunded.

Madam Chairman, the Coast Guard's capital numbers do not add up, and it appears the Department is not reviewing and restructuring the capital budget to accommodate the other internal challenges within the AC&I budget line and the changing circumstances since the attacks of September 11. To illustrate the changing nature of the operational mission requirements facing the Coast Guard, I would draw your attention to the two charts that I have here.

Admiral, these charts should look familiar. They came from a Coast Guard presentation about the nature of the threat and the New Normalcy. The first chart depicts the position of Coast Guard assets on 10 September. That pre-terrorist attack deployment can be characterized as being in the transitional zone between brown and blue water.

The second chart depicts the redeployment of those assets a week later to better meet the emerging threat. That chart shows Coast Guard assets hugging America's coastline, deployed almost exclusively in the littoral zone, in brown water.

Many of you will recall the press pictures of Coast Guard cutters, I believe it was a 378-foot cutter on-station on New York Harbor, and more recently the substantial Coast Guard presence in New Orleans for the Super Bowl. Both of these deployments were appropriate and necessary in light of the threat. The events of September 11, as graphically illustrated on the charts, dramatically changed the Coast Guard's mission profile. The capital budget request, as represented by Deepwater, does not reflect the change.

Madam Chairman, that is not the only problem with Deepwater. Forget for a moment the disconnect between the mission profile and the budget request. From my experience on this subcommittee, the Department has struggled with large and complicated procurements. Inspector General Mead could go on for hours about the Boston Central Artery, the advanced automation system, WAS, and plenty of other procurements.

My experience on other subcommittees leads me to believe that this problem is not unique to the Department of Transportation. The one conclusion we can draw is that the larger and the more complicated the procurement, the more certain the overruns and schedule slippages. Deepwater is already slipping, even though it has not delivered anything but studies and internal machinations, yet for the 4 year in a row we are being asked to appropriate a blank check, this year for \$500 million, and being asked to trust an untried, unproven, and risky strategy.

In some situations, complexity and size are unavoidable, but not here. Deepwater is basically four categories of procurements; ships, aircraft, sensors, and communications systems. It is almost as though someone sat around and asked what the most difficult and risky way to capitalize the Coast Guard's long-range assets would be. Here it is.

But Madam Chairman, the problems do not end there. If you combine funding projections for Deepwater and the National Distress System modernization, they consume 80 percent of the capital appropriations for the next 5 years. If history is any guide, these programs will consume an even greater portion of the capital budget in the future, as their cost escalates.

#### CAPITAL PLAN

Deepwater is already squeezing out other capital projects. If you take a look at the Coast Guard's 5-year capital plan, you see that the number of projects shrinks by more than 6 percent this year alone. That includes the Coast Guard's family housing appropriation, which is not programmed for any funding in fiscal years 2004 and 2005. I know that that will come as a surprise to Secretary Mineta and to the Coast Guard enlisted personnel.

The Coast Guard Magazine regularly highlights how important improving Coast Guard housing is for retention and quality of life, but this budget tells me that those issues get sacrificed at the altar of Deepwater.

Now, it is hard to envision cost escalations in Deepwater even before a contract award, but that is what the budget presents. After multiple briefings characterizing Deepwater as a 20-year, \$500-million-per-year procurement, the capital plan now inflates future funding.

To my knowledge, there is no other procurement line in the transportation budget that gets COLA. This inflation adjustment effectively robs all the other capital projects of an additional \$292 million over the next 4 years. Why, then, is the Coast Guard unnecessarily bundling these other four procurement categories and ignoring changing circumstances, the warning signals and the crowding out occurring in the AC&I budget? I wish I knew.

#### DEEPWATER

Simply put, the procurement strategy makes little sense and is a black hole in the Coast Guard's capital budget. There are many reasons to be concerned about the Deepwater program. This procurement was justified by a study. The law certifies that the Deepwater and the National Distress System modernization are fully funded within the capital plan. There is a tab for that certification in the budget justification but no certification. The budget outyears have been inflated, yet we still do not know what we are buying. The law requires details on assets to be procured, but the budget justification is nonresponsive.

Last year, this was a 20-year procurement. Now the Coast Guard says it could last as long as 30 years, yet we are being asked to appropriate another blank check, bringing the total to \$890 million. The responsible thing for Congress to do is to withhold further funding for this program until it has been restructured to meet the change in mission profile, restructured to meet other necessary capital investment, and restructured to minimize the procurement risk.

Now, in light of these complaints I know some will question my commitment to modernizing the Coast Guard's capital plant. Let me repeat what I have said for the past 4 years as chairman and now Ranking Member of this subcommittee: the Coast Guard needs to modernize or replace its aircraft, communications equipment, and especially its ships.

Our goal with these procurements and the rest of the Coast Guard's capital budget must be to optimize the mix of tools in the hands of men and women of the Coast Guard. I would think that we would take the extra time to get it right and to minimize the risk to the taxpayer and the Coast Guard and the Department's other priorities. I stand ready to work with you, Madam Chairman, and with you, Admiral Loy, to that end.

Thank you.

#### ADDITIONAL SUBMITTED STATEMENTS

Senator MURRAY. The following statements were received from Senators Mikulski, Kohl and Durbin which will be inserted in the record at this point.

[The statements follow:]

## PREPARED STATEMENT OF SENATOR BARBARA A. MIKULSKI

I would like to take this opportunity to welcome Admiral Loy and Mr. Mead. It's a pleasure to be here with you today to discuss the Coast Guard's fiscal year 2003 budget request. You perform a wide array of missions that support our national security. I want to make sure you have what you need and to thank you for all that you do every day. I would like to offer a special thanks to Admiral Loy for his almost 40 years of dedicated service to this country and his unfailing leadership of the Coast Guard since 1998.

Our U.S. Coast Guard is one of the most efficient and effective of all Federal agencies, performing essential missions that address national safety and homeland security. The men and women of the Coast Guard put their lives on the line every day to save those who suffer calamities at sea, to apprehend drug and contraband smugglers, to protect our fisheries and other marine resources, and to safeguard our environment from oil spills and other hazards.

Each day the Coast Guard conducts 109 Search and Rescue missions. They also seize over 169 pounds of marijuana and 306 pounds of cocaine, while responding to 20 oil or hazardous chemical spills, in their normal course of action.

And then came September 11. What happened that day was not simply an attack against America, it was a crime against democracy, decency and humanity. Immediately following the terrorists attacks, the U.S. Coast Guard responded quickly to the Nations's homeland security needs. They reprogrammed a significant number of their assets to provide port security. The Coast Guard's port security mission has expanded since 9/11 from 1-2 percent of daily operations to around 50-60 percent today.

Maritime industries contribute \$742 billion annually to our economy. This is essential because 95 percent of America's trade moves over water and we would be crippled if there was an attack on our maritime commerce. Maritime borders of the United States include 95,000 miles of open shoreline and 361 ports, including my home state's Port of Baltimore.

The Coast Guard was there when we called, and we need to ensure that they have the assets to meet these new challenges. I want to ensure that the world's best Coast Guard is the world's best equipped Coast Guard. And yet, we ask them to operate a fleet of ships and aircraft that is one of the oldest in the world. Some of their ships date back to WWII and many are quickly approaching the end of their useful service lives. The Coast Guard's fleet is technologically outdated, personnel intensive, and increasingly expensive to operate and maintain. The Deepwater project would replace these antiquated systems high and medium endurance cutters and aircraft and the associated sensor and communications systems.

I am absolutely committed to the U.S. Coast Guard and to Maryland's own Coast Guard Yard at Curtis Bay, which serves as a core logistics facility that helps ensure fleet readiness.

Admiral Loy, I look forward to working with you to address the Coast Guard's current and future readiness needs.

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 PREPARED STATEMENT OF SENATOR HERB KOHL

Thank you very much, Madam Chairwoman. Congratulations on becoming our new Chair of the Subcommittee. I would like to thank Admiral Loy and Mr. Mead for taking the time this morning to share their thoughts on the fiscal year 2002 Coast Guard budget request. The issues we are here to discuss are very important to myself and the people of Wisconsin. The Coast Guard plays an essential role in both safety and commerce, and I would like to take this opportunity to applaud the work they have done in Wisconsin.

We all know that increased maritime commerce along with increased hostile threats to our coastline will continue to pose serious demands on your ability to provide the service we as Americans are all proud of. We all also know that it is impossible to meet those threats and demands of the future with a Coast Guard fleet from the past. The wear and tear on your personnel and equipment have accelerated, resulting in increased risks by having tired people operating obsolete equipment. We as members of this Subcommittee will work with you to make sure that the Coast Guard is positioned and equipped to effectively achieve your mission of protecting the public, the environment, and U.S. economic interests in our waterways and ports for the many years to come.

I look forward to hearing from you on how the fiscal year 2002 Budget request for the Coast Guard takes us in the direction of modernization and increased readiness. The Deepwater Project is an important component of that effort and I am in-

terested to hear your comments on how you believe this project adds to your overall modernizing strategy.

Again, thank you for your testimony this morning and I look forward to working with this Subcommittee, and with the Coast Guard to continue our successes of the past and prepare for future challenges both in Wisconsin and the rest of the country.

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PREPARED STATEMENT OF SENATOR RICHARD J. DURBIN

Chairman Murray, thank you for holding this important hearing on the fiscal year 2003 U.S. Coast Guard budget. I would like to join you in welcoming Admiral James M. Loy, Commandant of the Coast Guard, and Transportation Inspector General Ken Mead.

I would like to take just a moment to thank Admiral Loy for his outstanding service to our country and for his fine leadership of the U.S. Coast Guard. While we'll miss his presence and leadership in Washington, we wish him the best of luck in retirement.

My opening statement is brief. I simply want to say thank you to the U.S. Coast Guard. The Coast Guard has done excellent work under less-than-ideal circumstances. They rushed to protect our ports and other critical infrastructure in the wake of September 11. And they have maintained their vigilance and dedication through the highest state of alert since World War II.

Twice since September 11—in October and January—I have visited the men and women of the Coast Guard in Chicago to thank them for their service and to hear about the challenges they continue to face every day. In fact, the last time we got together it was Super Bowl Sunday, with a foot of snow on the ground, and chilling temperatures. But, as usual, the Coast Guard was doing its job and not complaining about the cold weather or the increases in its duties. They are true professionals.

I believe the Great Lakes and the Chicago Lake Michigan shoreline are in good hands. I'd like to publicly acknowledge Admiral James Hull and the leadership of the Chicago MSO. I look forward to my continued work with them.

Chairman Murray, thanks to this Subcommittee and the fiscal year 2002 conference report, Chicago will soon see a rebuilt U.S. Coast Guard marine safety and research station near Navy Pier. This project has the potential to significantly improve public safety and law enforcement by rebuilding an old, unused station and by facilitating cooperation among local, State, and Federal marine safety authorities. I look forward to officially opening the station in the near future.

Of course, one of the regional challenges remains attracting a full-time USCG helicopter search and rescue team in the Chicagoland area. There's a long history here. Up to this point, a solution has eluded us. But, together with the Coast Guard, City of Chicago, State of Illinois, and the Illinois Congressional Delegation, I'm confident we can come to an agreement that will improve safety and help give boaters and other users of southwestern Lake Michigan peace of mind.

I would also like to put in a plug for the EJ&E railroad bridge near Morris, Illinois. This bridge is one of the most frequently hit in the country and has been identified as needing major alteration. This Subcommittee has provided nearly \$7 million over the last 3 fiscal years toward the EJ&E railroad bridge's reconstruction and included some very specific instructions to the Coast Guard. I hope the Coast Guard will proceed with this important alteration project to ensure the Illinois River remains safe and navigable.

I look forward to working with the U.S. Coast Guard on homeland security, these Illinois projects, and the Integrated Deep Water System program in fiscal year 2003 and beyond.

Thank you, Chairman Murray, for scheduling today's hearing.

Senator MURRAY. Thank you very much, Senator Shelby. We will now turn to Admiral Loy for his opening statement.

STATEMENT OF ADMIRAL JAMES M. LOY

Admiral LOY. Thank you very much, Madam Chairman. Good morning to the distinguished members of the subcommittee. It is a pleasure to appear before you today to discuss the Coast Guard's fiscal year 2003 budget request and its effect on the essential daily services we provide the American public and, I might say, across the full range of the mission profile that both you and Mr. Shelby

have mentioned already this morning, but I think my first responsibility today is to thank you, Madam Chairman, for your personal effort and for that of the committee membership and staff during the post 9/11 period when the Transportation Appropriation for 2002 and the fall supplemental was being negotiated.

#### SUPPLEMENTAL FUNDING

I am especially pleased with the structure of the \$209-million supplemental as it reflected not only the immediate maritime security requirements, including paying reservists called to duty, but also the 1½ years of the fiscal year 2002 National Defense Authorization Act exposure. That effort has enabled us to put the full capability of the Coast Guard into the war on terrorism. You were there when we needed you, and I am very grateful for that.

Working with Secretary Mineta and the Department of Transportation, the Coast Guard's fiscal 2003 budget first and foremost represents significant increases to address our Homeland Security responsibilities. We are in a resource crisis to stand up the permanent capability to deal with our maritime security challenges, and this budget addresses it strongly, as you have suggested in your opening statement, and when the President said the budget being sent to the Congress has the largest increase in spending for Coast Guard in our Nation's history, our ports, waterways, and coastal security are the focus of that increase.

Last year, I talked about the Coast Guard's multiyear plan to transform our organization by restoring our readiness and shaping our future to enable the Coast Guard as a multimissioned maritime military organization to adapt to the need of our Nation. We should be applauding the accomplishments of this organization on the occasion of 9/11. Those charts that Senator Shelby reflected represented the very key aspect of what we do best for America. We shift gears when necessary to go to the Nation's primary need, and we adjust accordingly in the aftermath of that shift that the Nation requires.

This budget also methodically continues that strategic effort and also concentrates on our efforts to rebuild our Search and Rescue program, a clear administration and congressional priority and, I might add, one of my own. All these intentions were shocked by the future that arrived unannounced on September 11 of last year. The transformation that we had designed occurred sooner, faster, and with greater force than we might have anticipated, but it did not alter our fundamental vision, and we must continue that transformation. As we bolster the foundation of our service, we will simultaneously enhance our increased maritime homeland security capabilities.

#### MARITIME SECURITY

Madam Chairman, I will make just brief comments about four items that I believe frame this budget. First, maritime security. The Coast Guard, with strong support from Secretary Mineta, from Governor Ridge and from the President, has developed five key goals which, when met, will radically improve the security of our Nation's ports and waterways. This fiscal 2003 budget will make significant strides towards those five goals, and they are simply to

build Maritime Domain Awareness in our ports and waterways and the approaches to this Nation, to control the movement of high-interest vessels, to enhance our presence on our waterways, to protect critical infrastructure, and especially with respect to Coast Guard force protection, and to use outreach both at home and abroad to create an all-hands evolution, because it is there and only there that we will actually realize the greater security profile we need. Much of this budget focuses on accomplishing those goals.

#### SEARCH AND RESCUE PROGRAM

Secondly, our search and rescue program. This committee focused on our SAR program last year, and I want to report back that I was listening very carefully. The enacted 2002 budget and the supplemental in the 2003 request are systematic steps in the 5-year plan that we have developed and that we have spoken with you about. We just recently offered a very significant review of that plan to the Inspector General's staff, and my feedback from Mr. Mead is that they were very pleased with that report.

More importantly, clear capability improvements, significant head count additions, solid training investments, and very real equipment and technology improvements have been made and will continue to be made in the 2003 budget and the following years thereafter.

#### NATIONAL DISTRESS MODERNIZATION

Third, the National Distress Response System Modernization Project. This project will modernize the capital infrastructure that enables effective safety and security response capability. Many call it our maritime 911 system, and it is that and more. This budget seeks \$90 million to accelerate the project. As this committee requested, there seems to be three areas of concern here: (1) did we eliminate some kind of important capabilities in the phase 2 request for proposal which went on the street, (2) will there still be coverage gaps associated with our new system, and 3, is our adjusted standard for system restoration from a 6 to 24-hour standard a reasonable one in the wake of what might be a hurricane that goes by and topples towers?

Well, we have spent an awful lot of time on these three and many other questions as the requirements were being modified, and the real RFP for phase 2 was issued just last week. I believe we made very solid, cost-effective decisions on each one of those questions. The new system is enormously important not only for search and rescue, but as the command and control system for all of our missions, including maritime security. We are on track to complete the system by the fourth quarter of 2006, as directed by the Congress, and I welcome your questions with regard to any of those three issues.

#### INTEGRATED DEEPWATER

Fourth and last, the Integrated Deepwater System. On his recent trip to Portland, Maine, President Bush said, we must make sure our Coast Guard has a modern fleet of vessels, and the Congress has helped us move in that direction. It has been a long and, yes,

tortuous path to make sure we are doing this the right way. We have reached out time and time again to get advice and counsel from experts. We are now only a few months away from an award. We are on track with forward-thinking, and strongly applaud that acquisition strategy.

Last year, Senator Shelby cautioned us to be meticulous, to be methodical, and not to rush to a decision, and we have done that and more. At the request of the Office of Management and Budget, the Acquisitions Solutions Incorporated Company conducted a full, independent review of the Integrated Deepwater System phase 2 RFP. It did delay our time line, but I believe it was time well-spent, because we got the 15th or 20th or however many times you want to count it affirmation that the acquisition strategy was, in fact, right on target, exactly what this project deserved, with the attention being spent to it being right on track.

The review concluded that the project was well-conceived, well-developed, and well-managed. They strongly supported the acquisition strategy and said they felt the Integrated Deepwater System would become a model of performance-based success for others in Government to emulate in the future.

As we speak, our team is reviewing the three proposals offered to the RFP. We remain ready to award in the third quarter of fiscal 2002. This budget supports the next step. IDS will provide capability across all mission areas, including maritime security. It is the right project whose time has come, and we should move forward on it aggressively immediately.

Madam Chairman, my written statement closes with a quote from the President. He said, quote, I saw how the Coast Guard has responded after 9/11, and I know how important the Coast Guard is for the safety and security and the well-being of our American citizens, close quote. I am enormously proud of what every member of my service has been doing before and after 9/11, and our great strength is our multimission capability and the inherent adaptability to shift focus to the Nation's immediate maritime needs. That is what we did on 9/11. This budget will underpin this capability in fiscal year 2003.

#### PREPARED STATEMENT

Madam Chairman, I have provided to the staff a small folder of the copies of the slides that were provided and, if there is any value to them through the course of the hearing, I offer you those to note along the way, as we discuss these issues.

Thank you, Madam Chairman, and I look forward to your questions.

[The statement follows:]

#### PREPARED STATEMENT OF ADMIRAL JAMES M. LOY

##### INTRODUCTION

Good morning, Mr. Chairman and distinguished members of the Subcommittee. It is a pleasure to appear before you today to discuss the Coast Guard's fiscal year 2003 budget request and its impact on the essential daily services we provide the American public.

Working with Secretary Mineta and the Department of Transportation, the Coast Guard's fiscal year 2003 budget first and foremost represents significant increases to address our Homeland Security responsibilities. When the President said, "the

budget [being sent] to the United States Congress [has] the largest increase in spending for the Coast Guard in our Nation's history" our ports, waterways, and coastal security are the focus.

Last year I talked about the Coast Guard's multi-year plan to transform our organization by Restoring Our Readiness and Shaping Our Future to enable the Coast Guard, as a multi-missioned, maritime, military organization, to adapt to the needs of our Nation. This budget also methodically continues that strategic effort and also concentrates on our efforts to rebuild our Search and Rescue program, a clear Administration and Congressional priority. All these intentions were changed on September 11 of last year. The transformation that we had designed occurred sooner, faster, and with greater force than we might have anticipated but it did not alter our fundamental vision—we must continue that transformation. As we bolster the foundation of our service, we'll simultaneously enhance our increased Maritime Homeland Security capabilities.

#### TRANSFORMING OUR ORGANIZATION

The Coast Guard achieves its flexibility and strength through its military discipline, multi-mission character, and civil law enforcement authority. This unique authority and flexibility in operations allows our organization to shift our resources rapidly from one priority to another, often in a matter of minutes.

Our mission profile is different than planned a year ago. At that time, Marine Safety was allocated 14 percent of our mission portfolio including the Coast Guard's traditional Port Safety and Security efforts. In the days and weeks following the terrorist attacks, we dedicated over half of all Coast Guard resources to Maritime Homeland Security—or as we now refer to it—Ports, Waterway, and Coastal Security. In fiscal year 2003, our traditional Marine Safety activities coupled with the resources dedicated to Ports, Waterways & Coastal Security represent a very significant 27 percent of our Coast Guard resources.

Our Maritime Transportation System (MTS) is both valuable and vulnerable. The MTS includes waterways, ports, intermodal connections, vessels and vehicles. The Maritime Transportation System moves 95 percent of the Nation's overseas trade accounting for nearly \$1 trillion in GDP. Protecting America from terrorist threats requires constant vigilance across every mode of transportation: air, land and sea. The agencies within the Department of Transportation, including the U.S. Coast Guard, the Maritime Administration (MARAD), and the Transportation Security Administration touch all three modes of transportation and are cooperatively linked. The vast majority of the cargo handled by this system is immediately loaded onto or has just been unloaded from railcars and truckbeds, making the borders of the U.S. seaport network especially vulnerable. The Coast Guard, with strong support of Secretary Mineta, has developed five key goals, which when met will protect and ensure the safety of our Nation's waterways and ports, as well as maintain and increase public confidence in the Maritime Transportation System. In fiscal year 2003 the Coast Guard will make great strides in addressing these five goals:

*Build maritime domain awareness.*—The United States must have an awareness of all vessels—with their cargo and crew along with associated risk profiles—that operate to and from our ports, or transit our coastal waters. We will complete Port Vulnerability Assessments for the Nation's 50 most critical ports. There are also approximately 300 personnel and \$88 million requested to establish intelligence fusion centers for the collection, analysis, and sharing of intelligence information. The initiatives in this component of our have the potential to significantly reduce security risks while allowing better decision making and allocation of security resources.

*Ensure controlled movement of high interest vessels.*—High interest vessels include any vessel that could be used as a weapon of mass destruction and vessels carrying a large number of passengers (i.e. Liquefied Natural Gas carriers, chemical tankers and cruise ships). These vessels must be identified, and possibly boarded and inspected by Coast Guard personnel well offshore before a possible threat could cause harm to our Nation's ports or people. This budget supports 160 Sea Marshals for armed escort of High Interest Vessels and provides the resources to increase on-the-water patrols for all 49 Captains of the Port zones.

*Enhance presence and response capabilities.*—Increased presence has great value as a deterrent and if a potential threat has been identified, the Coast Guard needs the capability to detect, intercept and interdict it, preferably on the high seas, using a layered defense of major cutters, patrol boats, and maritime patrol aircraft. Such action will effectively disrupt a terrorist's planned chain of events and prevent a possible catastrophic terrorist attack well before it threatens our shores. This budget completes building a total of 6 Maritime Safety & Security Teams with nearly 500

active duty personnel. It will also add 26 more Port Security Response Boats and staffing for small boat stations.

*Protect critical infrastructure and enhance Coast Guard force protection.*—The Coast Guard must take measures to ensure protection of our personnel, physical plant, and, consistent with the Administration's Critical Infrastructure Protection Program, information technology capabilities. The threats posed are wide and varied, and require considerable actions to safeguard the Coast Guard's people and resources. \$51 million is requested for Anti-Terrorism/Force Protection—with specific enhancements to physical infrastructure, cyber-security, personal protective equipment, and firearms and ammunition.

*Increase domestic and international outreach.*—Addressing security risks in the maritime environment is an "all-hands" affair. It will require partnerships and strategic relationships at home and abroad. To help build this security network, the Coast Guard will require robust security plans, including plans for commercial vessels, offshore structures, and waterfront facilities. These plans will address access control, credentialing of waterfront employees, and physical and other security issues. Coast Guard Captains of the Port, in concert with all other port stakeholders, will prepare anti-terrorism contingency plans. All of these plans will be exercised periodically. The Coast Guard will continue to work with the International Maritime Organization to align international activities and improve security. The budget proposes 111 contingency response planners for worldwide seaport infrastructure security.

#### RESTORING OUR READINESS

We must also continue our multi-year, phased efforts to restore readiness as we strive to establish equilibrium to sustain our "new normalcy." We must attend to traditional operations and perform appropriate training, maintenance and administrative work, while maintaining surge capacity for emergency operations. We must ensure adequate levels of training, maintenance, and other support resources are in place to achieve the full measure of output from our ships, aircraft, and shore facilities.

*Search and Rescue (SAR).*—The Coast Guard remains the sole government agency that has the expertise, assets, and around the clock, on-call readiness to conduct Search and Rescue operations in all areas of the maritime environment. Through education, regulation, and enforcement efforts, as well as SAR operations, the Coast Guard strives to reduce fatalities, injuries and property loss at sea. Annually, the Coast Guard responds to approximately 40,000 calls for assistance. In fiscal year 2001, the Coast Guard saved over 84 percent of all mariners in distress; over 4,100 lives.

The Coast Guard has undertaken a multi-year effort to improve our readiness at our small boat stations where many of the search and rescue cases take place. We added 67 personnel for back-up safety boat crews and tower watches at our surf rescue stations in fiscal year 2001. This year the Coast Guard is adding nearly 200 personnel to small boat stations and command centers. Additionally, we are opening a formal school for training Boatswain's Mates and establishing traveling small boat training teams, ensuring that our personnel have critical skills required to successfully carry out search and rescue missions. Personal protective clothing inventories have been enhanced to protect our crews from the harsh environment. This effort continues in fiscal year 2003 by adding another 174 personnel to our small boat stations to reduce the work hour requirements and enhance the retention of our front line personnel.

*The National Distress & Response System Modernization Project (NDRSMP).*—In addition to adding personnel to our emergency response system, we are making major commitments to the capital infrastructure that enables effective safety and security response capability. The Coast Guard is underway with a major re-capitalization of the Nation's "Maritime 911 System."

The National Distress & Response System Modernization Project will update our 1970's technology to an integrated communications network that will greatly increase detection and localization of distress signals, eliminate known radio coverage gaps, and enhance Coast Guard command and control capabilities across all mission areas, including homeland security, on the Nation's inland and coastal waterways. This budget will fund the initial installation of NDRS equipment and networking at six of the Coast Guard's Group regions along the Atlantic, Gulf, and Pacific Coasts.

*Human Capital.*—Our personnel remain our organization's most valuable resource. It is their hard work and dedication that have enabled the Coast Guard to adapt to evolving missions and changing operational environments. The Coast

Guard's motto of *Semper Paratus*—always ready—is more a statement of our people's mindset than of the capabilities of our physical assets.

At his State of the Union address, President Bush emphasized the commitment of men and women in uniform to provide for our Nation's security and safety. He said, "Our men and women in uniform deserve the best weapons, the best equipment, the best training—and they also deserve another pay raise." This budget reflects the President's desires.

#### SHAPING OUR FUTURE

We must also plan the U.S. Coast Guard's future now. The ability to anticipate and respond to new threats, risks, demands and opportunities is critical to our success.

*The Integrated Deepwater System.*—Of the 39 Navies throughout the world, the U.S. Coast Guard has one of the oldest. With great support from the Department of Transportation and the Administration, we're ready to move forward with our plans to recapitalize and upgrade our deepwater assets. During his recent trip to Portland, Maine, President Bush said we ". . . must make sure our Coast Guard has a modern fleet of vessels." Providing capability across all mission areas, our Deepwater assets are vital to the layered defense and response for Maritime Homeland Security. Deepwater is key to ensuring the Coast Guard can continue to fulfill all our missions and essential in providing a high level of "maritime domain awareness." This budget fully funds the first full year of \$500 million for this critical program.

#### CONCLUSION

The President's fiscal year 2003 budget provides immediate capability for our Homeland Security responsibilities and continues to build upon past efforts to restore service readiness and shape the Coast Guard's future. The budget also demonstrates unwavering support for both the Deepwater project and National Distress and Response System Modernization Project (NDRSMP). The end result of the President's fiscal year 2003 budget will be a more capable Coast Guard that is correctly positioned for transformation into the Coast Guard of the 21st century.

I close with a quote from our Commander in Chief as he reflected on the Coast Guard's efforts as of late. "I saw how the Coast Guard has responded after 9/11 and I know how important the Coast Guard is for the safety and security and the well-being of our American citizens.

This is a fine group of people, who don't get nearly as much appreciation from the American people as they should. And I'm here today [Jan 25, 2002] to say thanks, on behalf of all the citizens who appreciate the long hours you put in, the daring rescues you accomplish and the fine service you provide to our country. Oh, yes, we're on guard in America."

Protecting our ports, waterways, and coastal regions, saving mariners in distress, interdicting illegal migrant and seizing drugs, or protecting our fisheries—With this budget the Coast Guard will be there to answer the call. . .

*Semper Paratus*

#### STATEMENT OF HON. KENNETH M. MEAD

Senator MURRAY. Mr. Mead.

Mr. MEAD. Thank you, Madam Chair, Senator Mikulski, Senator Stevens. I want to start by saying that we have delivered to the Majority and Minority our report of yesterday to the Appropriations Committees and the Department's overall budget, and so you have that for the record.

I also want to start out by saying that this is probably the last hearing that I will be joining jointly with the Commandant here, and I wanted to say on a personal note that I have learned a lot from Admiral Loy. The country has a lot to thank him for, and his leadership, and just speaking as the Inspector General, it is always important in our relationships with the agency heads that they be respectful of the independence of the Inspector General, be solicitous of the Inspector General's views, and responsive to the recommendations, and I feel on every one of those counts that Admi-

ral Loy and the Coast Guard under his leadership should get five stars, and I hope he goes on to serve the country in some other capacity.

Now, to the testimony. As you recall, last year at this time the big budget drivers were Deepwater, the Search and Rescue Program, and the Distress System, and to maintain the Coast Guard's core missions. We were not talking about beefing up the security mission, and so this year you have the security mission overlaying the Coast Guard's budget, and what I would like to talk about today is the Coast Guard's overall budget request, the Coast Guard's response to our search and rescue report, which outlined deficiencies, the Deepwater capability, the Deepwater capability replacement project.

#### NATIONAL DISTRESS SYSTEM

That is all the Coast Guard's assets that operate 50 miles and out afloat and airborne, and as well as the overhaul of the National Distress System. That is rather like a 911 system where mariners in distress can call the Coast Guard and, of course, it is inextricably intertwined with the search and rescue program, so I think this is a real critical year for the Coast Guard. It has got to take actions to adjust its missions in the wake of 9/11, and it simultaneously has to serve all its other missions, and simultaneously embark on what is the largest and most expensive acquisition in its history.

At the same time it is doing this, it has to resolve serious weaknesses in its Search and Rescue Program and begin overhauling that National Distress System. We feel that the Coast Guard is facing a number of big uncertainties about its mission requirements, how it is going to execute major acquisition projects, and control costs. We think the Coast Guard is probably at a point where they ought to invest in a cost accounting system, because you have a pretty big budget plus-up, a lot of big endeavors moving out at the same time, and you are going to want to know how much money is going to each and what we are getting for it.

The Coast Guard's budget seeks an increase of \$1.6 billion. That will move the budget from \$5.7 billion to \$7.3 billion. I think it is important to note, though, that really about three-quarters of that budget increase is for retirement, pay entitlements such as cost of living increases, and things of that nature, and so you are really left with about a \$500 or \$600 million actual increase.

The Coast Guard is striving to balance its missions for fiscal 2003, and it plans to dedicate between 25 and 28 percent of its resources to security and port safety. That is roughly twice what the Coast Guard was applying to those areas last year—that is, before 9/11—and it views the 2003 budget request as the initial phase of a 3-year plan to enhance its homeland security missions. What is not clear to us is if the Coast Guard intends to request additional increases in 2004 and 2005 to support that plan.

#### SEARCH AND RESCUE

A second point concerns the Search and Rescue Program. Admiral Loy is right, they have pulled together a plan that I think is fairly robust. My staff was very impressed with it, and we reported,

of course, last year that the search and rescue program was really in need of repair. It was declining because it did not have enough qualified people. It did not have a formal training program for its staff, and the equipment was in a state of disrepair, so the Coast Guard has developed this plan.

You provided a \$14.5 billion plus-up, the budget request another plus-up, and I think, as you all know, the Inspector General has been directed to make a certification that that money has been used to supplement, not supplant the baseline expenditures that were being made in 2001 for search and rescue.

You should know that the small boat stations, which are the folks that do the search and rescue, are also doing port security, and we have not been out on the audit trail since 9/11 long enough to be able to quantify the extent to which they are trying to mix those missions, but we do know that the search and rescue people are operating—their operating tempo for port security has gone way up, and if you will recall the numbers I gave you last year on what they were performing just for search and rescue, you wondered how they could fit any more hours in the day.

#### NATIONAL DISTRESS AND RESPONSE MODERNIZATION

I would like to cover major acquisition projects. The Coast Guard is approaching an important crossroads in the National Distress and Response System Modernization and the Deepwater capability projects. Both projects involve multiyear contracts. They both have long-term funding requirements. The Coast Guard expects to award contracts for both projects later this year. The budget seeks about \$590 million for those projects combined.

There are some significant uncertainties in these projects that I think you will have resolved, or you should expect to have resolved later this year. For Deepwater, this is the second year the Congress has been asked to appropriate money for it without a detailed cost and schedule estimate, and that is attributable to the procurement strategy they are following, so that right now I cannot tell you exactly what assets will be modernized or replaced and when, and at what cost. We should be able to tell you that later this year, after the contractor is selected, which I think is in the third quarter.

Also, last year at this time we thought that the time line for the Deepwater acquisition would be 15 or 20 years. Now, we are not sure that 15 or 20 years is solid, and it may go to 30 years, so we would like to know more about the time line for that acquisition.

In the National Distress Response System, which I said is a 911 system for mariners in distress, I would like to use a chart. Actually, this is the same chart I used last year. You remember the little dots. The different colors on the dots just indicate they are intended to signify the amount of nautical miles that are areas off the coastline where people can call 911 for the Coast Guard and they will not get an answer.

I call them dead phones, or gaps, and the different colors indicate, as I said, in different nautical miles—for example, the red is 6,100 square nautical miles of gap. Where you have the yellow up there in Alaska you have 800 or more square nautical miles with lack of coverage, and the specifications that the Coast Guard is now seeking for the National Distress System will get rid of 90 per-

cent of those dots. The problem is that until they select a contractor, I cannot tell you which dots are going to disappear.

Also, we are concerned about the repair time. Initially, the specification was for a 6-hour repair time, and now the specification seems to have crept up to 24 hours, which seems like a long time to be in distress if you have to place a 911 call, but I do want to make clear to the committee that the replacement of the National Distress System that the Coast Guard is proposing is a vast improvement over what we have now, but I would like to see all of those gaps or dead zones closed.

#### PREPARED STATEMENT

And I would like to see the repair time reduced very substantially, and I understand if you have a hurricane you are probably going to need 24 hours or more to replace those antennas, but there are other reasons a system goes down, and I think for the range of reasons that a system may go down, that we really ought to reduce the time required to make repairs.

I think I will just proceed to Q and A's, if that is okay.

[The statement follows:]

#### PREPARED STATEMENT OF KENNETH M. MEAD

Madam Chairwoman and Members of the Subcommittee: We appreciate the opportunity to discuss Coast Guard's budget and management issues. We have identified balancing Coast Guard's missions and budget needs in light of post September 11 priorities as 1 of the top 10 management challenges in the Department of Transportation.

The Coast Guard is seeking a significant increase in its budget to be able to deal with an expanded security mission, perform its other major missions, and proceed with an extraordinary set of important major acquisitions. The budget will increase from \$5.7 billion in fiscal year 2002 to \$7.3 billion in fiscal year 2003. There are currently a number of uncertainties about Coast Guard mission requirements, how it will execute major acquisition projects, and control costs. Coast Guard needs an effective cost accounting system that meets Federal accounting standards to provide a basis for accurately measuring the costs of specific activities and making decisions about where to apply resources.

My testimony today will address three areas.

*First, the Budget Request for 2003.*—Coast Guard is seeking an increase of \$1.6 billion for fiscal year 2003. The largest portion of the increase is \$736 million for a required payment to Coast Guard's military retirement fund. Two other categories, operating expenses (up by \$733 million) and acquisitions (up by \$92 million), account for most of the remaining increase. The increase in Coast Guard's operating capacity is not as large as the increase in operating expenses makes it appear. About half of the operating expenses increase will pay for entitlements and other inflationary adjustments and not add to operating capacity. The other half of the increase will fund the operation of new assets, such as seagoing buoy tenders and coastal patrol boats, continue increased security operations begun after September 11, and fund new security operations.

Immediately after September 11, Coast Guard devoted 58 percent of its resources to port safety and security, while deployment to other core missions fell. For fiscal year 2003, Coast Guard plans to dedicate 27 percent of its resources to port safety and security programs. This is roughly twice the amount that Coast Guard planned to dedicate to these missions for fiscal year 2002 prior to September 11. The relative amount of resources Coast Guard plans to devote to drug interdiction and fisheries enforcement in fiscal year 2003 is expected to decrease from planned fiscal year 2002 levels. Coast Guard views its fiscal year 2003 budget request as the initial phase of a 3-year plan to enhance its homeland security missions while still conducting other diverse missions that remain national priorities. It is not clear to us if Coast Guard intends to request additional increases in fiscal years 2004 and 2005 to support this plan.

*Second, the Search and Rescue program.*—Last year we reported that the readiness of the Coast Guard's small boat station search and rescue program was declin-

ing because it did not have sufficient numbers of qualified personnel, a formal training program for key staff, and equipment that was up to standards. Coast Guard developed a strategic plan to improve readiness and the Congress provided \$14.5 million for fiscal year 2002 for added search and rescue program personnel and equipment. We have been directed to audit Coast Guard's use of these added funds and certify that the \$14.5 million supplements and does not supplant Coast Guard's level of effort in this area in fiscal year 2001. The fiscal year 2003 budget proposal seeks \$22 million to follow through on Search and Rescue program enhancements such as adding crew members to the 47-foot motor life boats and procuring small search and rescue boats.

Small boat stations are also playing a key role in port security activities since September 11. More than half of all station hours are devoted to port security, and operating tempo has increased significantly. Given the emphasis on security missions, it is unclear whether Coast Guard has implemented its plan to address the Search and Rescue program deficiencies we identified. As part of our audit to certify the use of fiscal year 2002 funds, we will determine the status of Coast Guard actions to address the deficiencies identified in our prior audit report.

*Third, Major Acquisition Projects.*—The fiscal year 2003 budget seeks \$590 million for Coast Guard's two largest acquisition projects, the Deepwater Capability Replacement and the National Distress and Response System Modernization. Both projects are critical to improving Coast Guard's operations, but both also have significant uncertainties that the Subcommittee should expect to see resolved this fiscal year.

—*Deepwater.*—This is the second year that the Congress is being asked to appropriate procurement funding for the Deepwater project without a detailed cost and schedule estimate. If the Congress appropriates the \$500 million Coast Guard is seeking for 2003, it will have \$790 million available for the procurement phase of the project. Given the acquisition approach that Coast Guard is using, reliable estimates that describe what assets will be modernized or replaced, at what cost, when that will occur, and when funding will be required, will not be available until after a contractor is selected. The selection is currently scheduled for the third quarter of fiscal year 2002.

Another area of uncertainty is how long the project will take to complete. Although Coast Guard originally stated this would be a 20-year project, the request for proposals states that the performance period for the contract could be up to 30 years. It is not clear to us whether this means that (1) previously planned annual funding levels will remain the same and result in increased cost, or (2) the planned annual funding levels will be spread out and reduce the level of funding required each year.

—*National Distress and Response System (NDS).*—Coast Guard has increased its estimate for the NDS project—the 911 system for mariners in distress—from \$300 million to \$580 million and it is seeking \$90 million in the fiscal year 2003 budget to begin procurement. If the Congress appropriates the \$90 million Coast Guard is seeking for fiscal year 2003, it will have \$125 million available for the procurement phase of the project.

The current system has many deficiencies including more than 88 communication coverage gaps, totaling 21,490 square nautical miles along the U.S. coastline where Coast Guard cannot hear mariners. The revised system will provide a significant improvement over the existing system.

However, we are concerned that Coast Guard reduced or eliminated capabilities in the revised system that it initially considered essential. This occurred because Coast Guard reduced performance specifications after contractors estimated that a system meeting Coast Guard requirements would cost more than \$1 billion. As a result of the reduced performance specifications, the revised system will still contain gaps in communication coverage. Because the acquisition strategy being used on NDS is following the same approach as that used on Deepwater, the number, size, and location of the gaps will not be known until a contractor's system is selected. Also, the time allowed to restore critical functions, if the system becomes unavailable, has been increased from 6 to 24 hours. However, at some time in the future, Coast Guard may have to upgrade the system to provide some or all of the capabilities that were to be provided by the \$1 billion system. We have recommended that Coast Guard develop an acquisition plan that includes cost and schedule estimates for upgrading the system to provide these capabilities.

## COAST GUARD'S BUDGET REQUEST REPRESENTS A 27.6 PERCENT INCREASE

Coast Guard's fiscal year 2003 budget request seeks an increase of \$1.6 billion or 27.6 percent over the fiscal year 2002 budget. As shown in the following table, most of the increase is in three categories: operating expenses; acquisition, construction, and improvements; and military retirement fund payment.

## COMPARISON OF COAST GUARD'S FISCAL YEAR 2002 BUDGET WITH ITS FISCAL YEAR 2003 BUDGET PROPOSAL

|   | Fiscal year 2002<br>enacted | Fiscal year 2003<br>President's<br>budget | Change    | Percent change |
|---|-----------------------------|---|-----------|----------------|
| Operating Expenses .....                              | \$3,902,679                 | \$4,635,268                               | \$732,589 | 18.8           |
| Acquisition, Construction and Improvements (AC&I) ... | 643,900                     | 735,846                                   | 91,946    | 14.3           |
| Environmental Compliance and Restoration .....        | 17,181                      | 17,286                                    | 105       | 0.6            |
| Alteration of Bridges .....                           | 15,466                      | 0   | -15,466   | -100.0         |
| Retired Pay .....                                     | 876,346                     |   |           |                |
| Coast Guard Military Retirement Fund .....            |                             | 889,000                                   | 12,654    | 1.4            |
| Reserve Training .....                                | 100,251                     | 112,825                                   | 12,574    | 12.5           |
| Research, Development, Test and Evaluation .....      | 21,077                      | 23,106                                    | 2,029     | 9.6            |
| Oil Spill Recovery .....                              | 61,200                      | 61,200                                    | 0         | 0.0            |
| Boating Safety .....                                  | 64,000                      | 64,000                                    | 0         | 0.0            |
| Gift Fund .....                                       | 80                          | 80  | 0         | 0.0            |
| Sub Total .....                                       | 5,702,180                   | 6,538,611                                 | 836,431   | 14.7           |
| Payment to Coast Guard Military Retirement Fund ....  |                             | 736,000                                   | 736,000   | N/A            |
| Total .....   | 5,702,180                   | 7,274,611                                 | 1,572,431 | 27.6           |

The increase includes approximately \$736 million for payment to Coast Guard's military retirement fund consistent with legislation proposed in October 2001 by the Administration. The \$736 million will fund the future retirement benefits of current Coast Guard uniformed personnel. The \$889 million funding item in the above table for the Coast Guard Military Retirement Fund finances payments to existing retirees.

Acquisition funding would increase by \$92 million (14 percent) to \$736 million. This includes \$500 million for the Deepwater project, and \$90 million for the NDS project.

The fiscal year 2003 budget request seeks \$4.6 billion for Coast Guard operations, a \$733 million (19 percent) increase over fiscal year 2002. About half of the increase will fund entitlements such as pay raises, increased health care costs, and other inflationary adjustments. The other half of the increase will fund the operation of new assets (such as seagoing buoy tenders and coastal patrol boats), continue increased security operations begun after September 11, and fund new and enhanced operations including port security. Funding for new security initiatives includes \$48 million for marine safety and security team; \$19 million for maritime escorts and safety patrols; \$60 million for enhanced communications, information, and investigations; and \$37 million for force protection.

## THE FISCAL YEAR 2003 BUDGET SEEKS TO BALANCE CURRENT PRIORITIES WITH COAST GUARD'S MULTIPLE MISSIONS

In response to the September 11 attacks, Coast Guard deployed 58 percent of its resources to port safety and security missions. These resources included its fleet of rescue boats at small boat stations around the country. The redeployment, however, came at the expense of other important core missions. For example, resources deployed to drug interdiction fell from approximately 18 percent to 7 percent. Other missions such as fisheries enforcement, recreational boating safety, aids to navigation, and migrant interdiction were also hard hit.

For fiscal year 2003, Coast Guard plans to use 27 percent of its operating expense budget for port safety and security programs. This is roughly twice the amount that Coast Guard planned to dedicate to these missions for fiscal year 2002 prior to September 11. To help fund the increased port safety and security program, Coast Guard will continue reduced levels of activity in other missions such as drug interdiction and fisheries enforcement. The following chart shows the resources projected to be used for major missions during fiscal year 2003 compared to fiscal year 2002.

Because the amount of operating funding is different in each year, the change reflects the difference in the relative amount of resources projected by mission.

U.S. COAST GUARD MISSION PROFILE—PERCENT OF PLANNED OPERATING EXPENSES BUDGET BY MAJOR PROGRAMS

[In percent]

| Program   | Fiscal year      |      | Change           |
|---|------------------|------|------------------|
|   | 2002             | 2003 |                  |
| Programs Increased in fiscal year 2003:                         |                  |      |                  |
| Marine Safety .....   | ( <sup>1</sup> ) | 5    | ( <sup>2</sup> ) |
| Ports, Waterways, and Coastal Security .....                    | ( <sup>1</sup> ) | 22   | ( <sup>2</sup> ) |
| Aids to Navigation .....  | 15               | 17   | +2               |
| Defense Readiness .....   | 2                | 3    | +1               |
| Programs Unchanged in fiscal year 2003: Search and Rescue ..... | 12               | 12   | 0                |
| Programs Decreased in fiscal year 2003:                         |                  |      |                  |
| Ice Operations .....  | 4                | 3    | -1               |
| Other Law Enforcement .....                                     | 3                | 2    | -1               |
| Migrant Interdiction .....                                      | 5                | 4    | -1               |
| Marine Environmental Protection .....                           | 11               | 8    | -3               |
| Living Marine Resources .....                                   | 16               | 11   | -5               |
| Drug Interdiction .....   | 18               | 13   | -5               |

<sup>1</sup> 14 percent combined in fiscal year 2002.

<sup>2</sup> Plus 13 percent.

The Coast Guard is in the process of balancing its enhanced port safety and security mission requirements with its other missions. According to Coast Guard, the fiscal year 2003 budget request represents the initial phase of a 3-year plan to address its needs. The Coast Guard's goal is to enhance all of its homeland security missions while still conducting other diverse missions that remain national priorities. It is not clear to us if Coast Guard intends to request additional increases in fiscal years 2004 and 2005 to support this plan.

FISCAL YEAR 2003 BUDGET CONTINUES EFFORTS TO ADDRESS DEFICIENCIES IN THE SMALL BOAT STATION SEARCH AND RESCUE PROGRAM

Coast Guard's small boat station Search and Rescue program provides the first line of response for mariners in distress. During fiscal year 2000, the 188 small boat stations responded to approximately 40,000 calls for help and saved over 3,300 lives.

As we reported to you last year, the small boat station Search and Rescue (SAR) program was suffering from serious staffing, training, and equipment problems that go back more than 20 years. Our findings were:

- staff shortages required personnel at 90 percent of the SAR stations to work an average of 84 hours per week;
- high attrition rates among enlisted personnel were impacting experience levels at small boat stations;
- 70 percent of vacant positions at small boat stations were filled with Coast Guard boot camp graduates with little or no training in seamanship, piloting and navigation, small boat handling, water survival, or search and rescue techniques;
- there was no formal training for boatswain's mates, who are key SAR staff and one of the largest of the Coast Guard's enlisted job specialties;
- 84 percent of the standard rescue boat fleet inspected by the Coast Guard in fiscal year 2000 were found to warrant a "Not Ready for Sea" evaluation; and
- Coast Guard had not requested funding to replace or extend the useful life of its 41-foot utility boat fleet, which is reaching the end of its service life.

In response to our recommendations, Coast Guard initiated a multi-year strategy to improve readiness at small boat stations. For example, during fiscal year 2002, Coast Guard added 199 billets to support station operations and is in the process of expanding training opportunities for station boatswain's mates. In its fiscal year 2002 supplemental funding request, Coast Guard received an additional 54 billets and funding to purchase 18 port security boats to augment station port security operations.

In DOT's fiscal year 2002 Appropriations Act, Congress directed Coast Guard to use \$14.5 million to add personnel, purchase personnel protection equipment, and begin the process of replacing its aging 41-foot utility boat fleet. We have been directed to audit and certify that the \$14.5 million supplements and does not supplant

Coast Guard's level of effort in this area in fiscal year 2001. The fiscal year 2003 budget proposal seeks \$22 million to follow through on SAR program enhancements, such as adding crew members to the 47-foot motor life boats and procuring small search and rescue boats.

In December 2001, the Coast Guard briefed us on its strategic plan for the small boat station SAR program. The plan identified actions to address the deficiencies found during our audit by, for example, adding personnel at stations to reduce the hours crew members are on duty and to provide administrative support to station management, freeing up management to train and certify crew members. Coast Guard also planned to increase the number of coxswains receiving advanced training, purchase personnel protection equipment for boat crews, and begin the process of designing and procuring a replacement for the 41-foot utility boat.

Since September 11, the operating tempo at small boat stations more than doubled as they responded to support port safety and security efforts while maintaining a successful search and rescue capability. More than half of all station hours are now devoted to the port security mission. In addition, Coast Guard called up reservists and enlisted the Coast Guard auxiliary to support the port security mission. This mission includes: enforcing security/safety zones around high-risk vessels, oil/gas/chemical terminals, and power plants; conducting harbor patrols; providing round-the-clock force protection around U.S. Navy and Coast Guard vessels and facilities; escorting high-risk vessels in and out of ports, and transporting sea marshals and boarding teams to and from vessels. Given the emphasis on security, it is unclear whether Coast Guard has implemented its plan to address the SAR program deficiencies we identified. As part of our audit to certify the use of fiscal year 2002 funds, we will determine the status of Coast Guard actions to address the deficiencies identified in our prior audit report.

#### ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS BUDGET PROVIDES A SIGNIFICANT FUNDING INCREASE FOR NDS AND DEEPWATER

The fiscal year 2003 budget request seeks an acquisition funding increase of \$92 million (14 percent) to \$736 million. The funding request includes \$90 million and \$500 million for the NDS and Deepwater projects, respectively. As proposed, the NDS and Deepwater projects account for 80 percent of Coast Guard's capital budget for fiscal year 2003.

#### THE NDS PROJECT IS LIKELY TO EXPERIENCE COST GROWTH

The 30-year old National Distress System no longer supports Coast Guard's short-range communication needs. System deficiencies, such as communication coverage gaps and limited direction finding capabilities, complicate Coast Guard's ability to effectively and efficiently perform search and rescue missions. For example, at least 88 major communication coverage gaps exist where Coast Guard cannot hear calls from mariners in distress. Totalling about 21,500 square nautical miles, the communication coverage gaps represent 14 percent of the total NDS coverage area and range in size from 6 to more than 1,600 square nautical miles.

Over the last 6 years, Congress appropriated \$56 million for planning the NDS project. In the planning phase, Coast Guard and its technical support agent performed a significant amount of technical and market research and worked directly with three contractors to design a system that would meet Coast Guard's needs. During March 2001, each of the contractors submitted a cost proposal that individually exceeded \$1 billion—nearly three and a half times Coast Guard's \$300 million estimate.

When the contractors' cost estimates came in higher than expected, Coast Guard revised the system's performance specifications to lower the costs to an estimated \$580 million. The proposed system will provide significant improvement over the existing system. However, Coast Guard eliminated or reduced capabilities in the \$1 billion system that Coast Guard originally considered essential to address deficiencies in the existing system and to improve the SAR program efficiencies. As currently designed the proposed system:

- Contains communication coverage gaps, meaning Coast Guard will not be able to hear and locate all mariners in distress even when they are within the system's planned range of 20 nautical miles of shore. While it is anticipated that the gaps will not be as large or as numerous as the 88 gaps in the existing system, the exact size and location will not be known until a contractor is selected later this year.

- Cannot pinpoint the location of distressed mariners. The proposed system will provide only the general direction of the distress call. Compared to the \$1 billion system, the revision has negatively impacted Coast Guard's original project goal to take the "search" out of search and rescue. Consequently, Coast Guard may have

to perform other investigative procedures and conduct wide-area searches to locate distressed mariners.

Restoring system outages will take longer. In the proposed system, the specified time allowed to restore critical system functions if they become unavailable has been extended from 6 hours to 24 hours and full system functions from 12 hours to 7 days. Coast Guard has no set parameters for restoring critical functions if the existing system becomes unavailable.

Reduced the capability to support an increased level of operations during a national emergency or a natural disaster. Capabilities that were eliminated, such as the ability to send classified information and to talk with other agencies such as the Department of Defense, may be necessary to support some Coast Guard homeland security activities.

While it is notable that Coast Guard has taken aggressive action to reduce cost estimates for NDS, Coast Guard may have to restore capabilities that were reduced or eliminated as the system is deployed to meet operational requirements. This will not only increase the cost of the NDS project, but will further compound Coast Guard's capital acquisition challenge.

We have recommended that Coast Guard develop an acquisition plan for approval of the Department prior to obligating any funds appropriated for the procurement contract, which is anticipated to be awarded in the fourth quarter of fiscal year 2002. Coast Guard fully concurred with our recommendation. However, given our concern over the reduction in capabilities, we have since recommended that Coast Guard ensure the acquisition plan also contains cost estimates and milestones for adding the capabilities that were reduced or eliminated. In addition, we recommended that the plan should identify how Coast Guard intends to meet its short-range communication needs in response to its increased homeland security mission.

#### UNCERTAINTIES WITH THE DEEPWATER PROJECT SHOULD BE RESOLVED THIS YEAR

The Deepwater project proposes to replace or modernize 209 aircraft, 92 vessels, and associated sensor, communications, and navigation systems that are approaching the end of their useful life. This project involves replacing or modernizing all of the Coast Guard assets that are critical to missions that occur 50 miles or more offshore, including drug interdiction, search and rescue, and migrant interdiction.

This project is unusual not only because of its size, but also because, if all goes as planned, it concentrates the responsibility for project success with one contractor (called the Integrator) and subcontractors extending over a planned period of at least 20 years. Given this, the Coast Guard should expect a high level of scrutiny by the Department and the Congress regarding this project.

The Congress supported the planning phase of the project by appropriating about \$117 million. The Coast Guard plans to replace its Deepwater capability as an integrated system rather than a series of distinct procurements. For example, instead of specifying that it wants a medium endurance cutter or a long-range helicopter, Coast Guard tasked three industry teams to propose vessels and aircraft that can work together to meet mission needs more effectively. The planning process has been comprehensive and provides Coast Guard a good basis for identifying its needs and developing an acquisition strategy.

The Coast Guard is rapidly approaching an important crossroads with respect to the Deepwater project. Although it previously planned to award the Integrator contract in the second quarter of fiscal year 2002, Coast Guard has appropriately delayed the award to provide additional time to further analyze industry proposals. The award is currently scheduled for the end of the third quarter of fiscal year 2002. The award of the integrator contract will start the Coast Guard moving forward on a course that is likely to be difficult and potentially expensive to alter once funding has been committed and contracts have been executed.

Coast Guard has not yet provided a reliable cost estimate for the Deepwater project, but that should be resolved once the Integrator is selected. The selection of the contractor will mark the beginning of discussions and negotiations between the Coast Guard and the winning contractor to devise the exact system the contractor will provide. It is likely the final system will not be exactly what the contractor proposed but will combine certain aspects from all three contractors' proposals. Once the final system design and configuration is determined, Coast Guard will be able to establish a cost estimate and deliverable schedule.

Coast Guard received \$290 million for the Deepwater procurement in fiscal year 2002. If it receives the \$500 million requested in fiscal year 2003, Coast Guard will have \$790 million available for the procurement phase of the project. Although Coast Guard originally thought this would be a 20-year project, the request for proposal states that the performance period for the contract could be up to 30 years.

It is not clear to us whether this means that (1) previously planned annual funding levels will remain the same and result in increased cost, or (2) the planned annual funding levels will be spread out and reduce the level of funding required each year.

Madam Chairman, this concludes my statement. I would be happy to answer any questions the Subcommittee may have.

Senator MURRAY. Thank you, Admiral Loy and Mr. Mead. Before we begin the question period, I will allow any of our committee members to make opening statements. Senator Stevens.

#### STATEMENT OF SENATOR TED STEVENS

Senator STEVENS. Thank you very much. I join the Inspector General in congratulating Admiral Loy for his period of time as Commandant. I understand the time is coming close, unless he is drafted to stay. I do not know if the President might do that, but we have enjoyed working with you, Admiral, and Mr. Mead's comments are well-taken as far as I am concerned.

My opening statement really is about homeland security, homeland defense. We have rumors up our way of substantial reductions in Coast Guard activities off Alaska because of the demands of the contiguous 48 States and the increased demands in terms of port security. I hope that that is not the case. We still have half the coastline in the United States, and if you look at the assets you have for half the coastline of the United States, they are about one-twentieth of the rest of the operation, even less than that.

But my real questions, when we get to questions, will be about those reductions and about the role of the Coast Guard in this new command we are hearing about, the Northern Command, and whether or not you will be part of that, if you have been consulted. I will save those questions for the question period, Madam chairman, but I do think that those of us who are from coastal States that have such heavy reliance on the Coast Guard, of course we welcome the increased role of the Coast Guard nationally and internationally, but I would not like to see us be left behind in areas where the reliance on the Coast Guard is so heavy, particularly in terms of safety and the operation of vessels in the North Pacific, probably the worst area of operation that you have as far as I am concerned.

But I do not know whether I can stay through the whole period to ask some of those questions. If I do not, I would like to be able to submit some questions to you to get on the record what we might have to review as this budget moves forward. I entirely support, as I said, the increased modernization of the Coast Guard nationally, and hope that that will trickle down to the area of law enforcement in the fishing industry as well as assisting in the protection of the extremely long coastline that we have as far as the difficulty of maintaining tight control over our border.

You are going to have an enormous role, really, as this future unfolds, and I am sure that this committee is going to be deeply involved in it, but we would hope that we can get the information from you that we need to make certain that we cover all of your needs in these appropriations this year and succeeding years. I think Mr. Mead's comments about future years is extremely important. You do not build ships in 1 year. We have to have some substantial commitments here if we are going to proceed with alloca-

tions for an initial period of construction and modernization and replacement of your vessels.

Thank you.

Senator MURRAY. Thank you. Senator Mikulski.

STATEMENT OF SENATOR BARBARA A. MIKULSKI

Senator MIKULSKI. Thank you very much, Madam Chairman. I appreciate this courtesy. I have to leave around 11:00 for another hearing.

First, Mr. Mead, I want to thank you very much for the excellent testimony and the background material. I think one, we love our Inspector Generals because they really do give us guidance on how to improve management, and I think the issues you raise in Deepwater are excellent issues, and we hope that the Coast Guard will address them for the committee, so we know we need Deepwater. We know we need the kind of accountability timetables and outcomes that I think you are pressing for, so thank you very much.

Admiral Loy, I wanted to come here today, also, not only to talk about the Coast Guard's appropriation, but to talk about the Coast Guard and talk about you. First of all, I really want to thank you for just being you. You have provided leadership, you have provided vision, and you have provided advocacy for the Coast Guard while they out there doing a tremendous job, and the Coast Guard motto, *Semper Paratus*, always prepared, you have really been an advocate to see that they are.

I just want to thank you for your leadership, and I know the men and women of the Coast Guard just will fall on a propeller for you, so I just want to thank you, and also for the Coast Guard. We in Maryland, of course, are forever grateful to our Coast Guard, and what they do in search and rescue, port security, even before September 11, and our environmental protection.

Since September 11 we have watched this operations tempo really increase in the bay and at the port, and we know you cannot do this with three people and two Zodiacs, and just the stress on personnel and the stress on the vessels that we have I think shows that the funding for the Coast Guard is, indeed, spartan, and I use only the bay because we appreciate the 24-7 that the Coast Guard always does even before September 11, so it is not like they got a new job. Their intensity of their job increased.

I note that your appropriations of 7.3 includes a \$700 million request for pensions. That is great, because we need to be able to have good pay, good health care, and good pensions to be able to recruit and retain people, but Madam Chairwoman, I am really concerned about the Coast Guard. I mean, if they get close to \$1 billion, but only \$500 million is really for what they need in terms of the Coast Guard mission, and \$700 million is into a pension, I think that is really not what the Coast Guard needs.

I just bring to the chairperson's attention this is roughly the same money we spent on EPA. EPA is worth every nickel of what we spend, and I know some might raise some flashing yellow lights about EPA, but I think the Coast Guard in my mind is a \$10 billion operation. I do not know where we are going to get the money, but the Coast Guard is the vital link in homeland security. You are, along with INS, the protector of our borders.

The INS is to protect and make sure bad people do not come into our country, but you have got to make sure not only bad people and bad things do not come into our country, and that bad things do not happen to our country. I do not see—no matter how diligent, no matter how duty-driven, no matter how resourceful and creative the Coast Guard is, they cannot really do this, and I would hope that we could in our talks with Governor Ridge and the President, I know we have got this for this year, and we have to make the best of what we can, but I would hope that within the next 3 years, that we really press the President to really give us the robust funding because of the competing needs of this committee.

So you might be underfunded, but you are not undervalued, and I just want to be able to say that, and I am going to do everything I can to help the committee keep the President's budget and see if we cannot find ways to add to it. Knowing the great stresses that are in your committee and, I must say, in mine—mine is pretty flat-funded—do you think we could get some money out of Defense?

Particularly for some of the homeland security issues. But thank you, and again, many, many thanks, and Godspeed, Admiral Loy.

Admiral LOY. Thank you, Senator Mikulski, for your support.  
Senator MURRAY. Thank you, Senator.

#### OPERATING TEMPO OF SEARCH AND RESCUE STATIONS

Admiral Loy, I am going to start with you. In the Transportation bill for 2002 this subcommittee more than doubled the Coast Guard funding request to improve training and staffing at your overtaxed small boat stations. We were, in fact, responding in part to Mr. Mead's observation that personnel at these stations were overworked, averaging 84-hour work weeks.

Mr. Mead's testimony today indicates that the operating tempo at these small boat stations has increased by 200 percent since September 11, and the added stress may undermine our efforts to improve training and work hours of these Coast Guard units. How are these units handling this 200 percent increase in workload?

Admiral LOY. I would have to look at the numbers to find out what Ken means by the 200 percent, but let me be very clear that post 9/11 the port security obligations that have come upon the organization have added to the workload, there is simply no doubt about it.

I would like to have the characterization of those stations be multimission Coast Guard stations, not SAR stations. It is not like those stations on 10 September and before were exclusively doing search and rescue and nothing else, so the multimission character of all of our stations is real, and that is probably worth getting on the table so that we do not go from zero to 100 percent kind of shifting.

#### RESERVE RECALL

First and foremost, the reserve call-up opportunity was absolutely mandatory for us. The first call I had on 11 September was to Secretary Mineta, who was already in the basement of the White House with the Vice President sorting out how they were going to get airplanes out of the air, and he gave me verbally over the phone the authority to call up our reserves and, as you know, Sec-

retary Mineta has domestic call-up authority, does not have to wait for the presidential call-up associated with the mobilization, and so instantly we were able to get a full third of the selected reserve of the Coast Guard on active duty and augmenting the stations to help them with that OPTEMPO issue.

The second thing is, we just shifted gears, Madam Chairman, in terms of what our people woke up to, a normal profile, if you will, on a traditional mission allocation process on 10 September. I was able to call the Area Commanders and they in turn called their down-the-chain District Commanders and Station Commanding Officers and said, "take a left and go to port security."

Now, we always have search and rescue as an interrupt demand mission that, in the event something occurs in a search and rescue environment, we always go there, but the first order of business then was to shift gears and deal with port security.

Senator MURRAY. When Mr. Mead gave his testimony, he said he has not had enough people out to check and audit some of the conditions of the small boat stations. When he does, do you think he will see any improvement in training or experience or workload?

Admiral LOY. Yes, ma'am. We have developed a 5-year game plan in which 2003 will be the 3 year to stand up these adjusted challenges that you offered us last year, and others as well; through Mr. Mead's audit. We have invested in staffing, we have invested in standing up training courses, we have invested in simple command center staffing and station staffing, about 200 bodies, if you will, in the 2002 budget, about another 200 bodies in the 2003 budget, and systematically we will gain that level of adequate OPTEMPO standard that we talked so much about last year, so he will find committed to the active force a combination of reservist and auxiliarist who unbelievably have volunteered thousands and thousands of hours to help those young people on active duty do what they needed to do across this period.

#### SMALL BOAT STATION AUDITS

Senator MURRAY. Mr. Mead, what do you expect to see when you go out to do those audits?

Mr. MEAD. I hope to see real, substantial improvement, and you know, when we did our last audit we developed a lot of baseline data on operating hours that were devoted to search and rescue, and we will be able to use that baseline data to compare what is going on now, so what we will do and what we will report back to you, you have asked us to certify the extra money that the Congress gave the Coast Guard for this function was not being used to supplant, but in addition, because of the points that Admiral Loy raised, that there is some certain flexibility of the missions.

We are going to go out and see exactly, substantively what is different. Has there really been core improvement in the hours these people are spending? Are they really getting trained, and are the boats they use, is the percentage of boats that were judged not ready—which was a substantial percentage—decreased?

I think we will have—we will not have to wait till the end of the fiscal year to get that information to you.

Senator MURRAY. I look forward to hearing from you as you gather that information.

## STATUS OF COAST GUARD'S TRADITIONAL MISSIONS

Admiral Loy, I am really disturbed by the fact that even with this historic funding increase that has been proposed for the Coast Guard for next year your level of effort in the area of marine safety, fisheries enforcement and drug interdiction are expected either to stay the same or diminish even further, and this comes at a time when you are not achieving your performance goals for interdicting drugs or keeping illegal fishing vessels out of U.S. waters. Has the amount of assistance you got from the Department of Defense to conduct maritime drug interdiction been reduced as a result of the war in Afghanistan and other operations?

Admiral LOY. To answer your last question first, Madam Chairman, there has been a relatively consistent contribution from the afloat community in the Navy with respect to on-scene ship days, and less so in the maritime patrol aircraft, which have, in fact been, if you will, almost recalled, if not State-side for the things they are doing here, to their deployments overseas.

My concern is that the changes, the things that brought DOD into the drug game in 1989 with the DOD authorization act, the requirement to fuse intelligence, the requirement to do detection and monitoring, to be the lead agency for detection and monitoring, those things have not changed appreciably in the 10 years that have gone by, so any kind of a loss of those assets in that mission will be a detraction from our ability to get the job done collectively.

I also wear the hat, as you know, as the Interdiction Coordinator for the country, for Mr. Walters, who just sat down in his chair, and I must reflect concern as to the impressions that I have seen, little red flags, if you will, going up that suggest perhaps walking away from the drug mission is part of the game plan in the Department of Defense.

We will watch that very carefully, and we will aggressively challenge the continuation of the assets we need in that field.

## COAST GUARD'S NEW NORMALCY

Senator MURRAY. Very good. Is this committee just going to have to accept the notion that New Normalcy for the Coast Guard means that we have a diminished effort in its core missions for marine safety and fisheries enforcement and drug interdiction?

Admiral LOY. I think there is an opportunity, Madam Chairman, if I may answer a couple of questions, including those from Senator Stevens here, 2003 will be the first of a 3-year game plan that will allow the Coast Guard to grow to provide its contribution to the New Normalcy you just described, and the New Normalcy is this.

On 10 September we were spending maybe 2 percent of our budgeting capability on port security, focused activity. By 15 or 18 or 19, the chart that Senator Shelby showed, we had committed probably 50 percent or more of our budgeted capability directly to port security, because we did exactly what his chart showed. We brought things from doing other mission areas.

Now, first of all, as I said earlier, I think that should be seen as an enormous strength this organization brings to the country. When a crisis is here, we go there. We have SAR instincts as an organization. We surge to that 50 percent level, and ever since we

have been backing off to find out what the New Normalcy is in the immediate area of port security so as to be quite clear as to what the degradation might be in the other missions of the organization.

These pie charts, Madam Chairman, show the large orange section in the sort of southwest quadrant, if you will, all the way to the right is the devotion we feel now appropriate to ports, waterways, and coastal security for the 2003 budget. And if you go around the circle you will see, with the exception of constant program strength missions like search and rescue and aids to navigation.

Senator MURRAY. I have to admit, it is a little hard to read from right here.

Admiral LOY. There is a copy in your folder. You will see small percentage drops in counterdrug effort, in fisheries enforcement effort in alien migration effort, and in the other wedges of our mission profile, to allow us to concentrate on this new priority 1, if you will, for the Nation.

Over the course of that 3-year build, we will rebuild the organization's strength, head count capability to not only do the new maritime security challenge, but to return in full scope to the other missions that you were referring to.

Senator MURRAY. Can you explain to me why, in the first year of the 3-year game plan, you talked about the level of effort in these core missions going down?

Admiral LOY. Because we are literally having to borrow some energy, if you will, from them in order to do year 1 of the New Normalcy, which is an almost 20 percent increase in that ports, waterways, and coastal security mission.

#### 17TH COAST GUARD DISTRICT

Senator MURRAY. Senator Stevens.

Senator STEVENS. Thank you very much. Admiral, let me first go to the 17th District. With the increase you are getting overall, is the effort in the 17th District going to be reduced?

Admiral LOY. The standards that we are challenged with in the 17th, Senator Stevens, are pretty constant, because it is a search and rescue requirement as well as a fisheries enforcement requirement that is met by those cutters off-shore in the Gulf of Alaska and the Bering Sea, so pretty much for the Pacific Northwest I will say from Northern California to the north our asset deployment profile will be essentially the same.

Senator STEVENS. While they are going up everywhere else, right?

Admiral LOY. We are able to borrow, if you will, fisheries enforcement capability—no, sir, they are not going up everywhere else, if you mean fisheries enforcement and counterdrug activity. The only thing that is going up, quote-unquote, is our attention to port security as the Nation's number 1 responsibility.

Senator STEVENS. The 17th District is really flat, and your overall budget is going up 200 plus million. Will any of that modernization money seep into this district?

Admiral LOY. Sir, the modernization money will seep into all corners of the Nation, including Alaska, of course. When Deepwater water comes of age, the cutters that go to Alaskan waters will be

new, modern cutters. When the aircraft come of age out of Deepwater they will go not only to Alaska, but everywhere else in terms of increased capability around the Nation.

Unless I am misunderstanding your question, sir, our investment in those projects, NDRSMP and Deepwater, is constant across the board.

Senator STEVENS. I am really talking about the operational level and the enforcement level and the basic level in the North Pacific, and what is going to happen to it. There is a great feeling out there, and I am hearing it from lots of sources, that the level of operations, the tempo of operations in the North Pacific is going down, and yet the effort, the fishing effort there is not going down.

As a matter of fact, because of the marvelous management of that resource, the harvesting continues to go up every year. A substantial portion of our seafood is coming from the North Pacific now, and I do not see any reflection of that in terms of operations of the Coast Guard, where our operation level is going down.

Admiral LOY. In the immediate wake of 9/11, as we surged away from those enormously important missions to meet the new number 1 priority of port security, clearly all around the Nation we borrowed cutter days and aircraft hours in order to make sure we were going to get the port security thing right.

We have since—a month or two went by after 9/11—been gradually restoring the capability of the organization to do fisheries enforcement, but in the fiscal year 2003, given the President's request, our concentration on port security will require, at least, a level of effort adjustment from our other significant mission areas in order to concentrate on the first year of a building process to gather the Coast Guard's wherewithal to do port security at its new higher level, as well as return fully to the 100 percent levels of our other mission areas.

The supplemental, for example, restored a budget line item that said, reduce the operational capability of the organization by 15 percent. Among other things, the supplemental has enabled us to go back to a 100 percent capability of the organization and use it around the country, and that has all been annualized in the President's request for 2003.

Senator STEVENS. As I said, I do not know of an officer I have more confidence in than you, Admiral, but when I look at this budget, headquarters office is going up from \$234 million to \$371 million, headquarters managed units going up from \$62 million to \$102 million. The basic functions of the system, if you look down each one of the districts, has an increase, fairly substantial increase, except for the 17th. It is flat. It is flat right across the board.

Admiral LOY. Let me look at that, Senator Stevens. I owe you a good answer, and I do not have it with me this morning. I will get back to you.

#### C-130 AIRCRAFT

Senator STEVENS. We put money in for the C-130's, and really I think it was the 2000 supplemental. What has happened to that money? I noticed—is there an error in your layout that that is

not—I am told that that 5-year capital plan does not show the \$30.5 million that was in the capital plan for last year.

Admiral LOY. Sir, with respect to the J models that were funded in the fiscal 2001 Military Construction bill, as I recall, Senator Stevens, this is where we are with that project. \$468 million was appropriated for six of those assets. First and foremost, we had a contract with the Air Force in December of 2000 that enabled us to procure the six airframes that were part of that buy.

There is about \$110 million, as I recall, left from that Military Construction bill. We are using that to develop the notions associated with workforce front end analysis, Coast Guard requirements to the aircraft in terms of modifying it, interim maintenance, et cetera. We probably are short about a \$200 million AC&I requirement in order to finish off the procurement of those particular airframes.

I think as a matter of fact I and Mr. Jackson, the Deputy Secretary, have been trying to arrange an opportunity to sit down with you and Congressman Young to sort out precisely what we should be doing with the J contract as it relates to the immediate future, so we owe you a good conversation, Senator Stevens. We will be trying to arrange that.

Senator STEVENS. I would like to pursue that. That is really related to the drug enforcement effort, it sort of seems to me by the pie chart, sort of being softened a little bit, and out of necessity, I take it.

Admiral LOY. Yes, sir. We have been trying to get back to chat with you and Mr. Young about it, who has sent us a piece of correspondence on the same issues, sir.

#### COAST GUARD RECRUITING AND REINLISTMENT

Senator STEVENS. If I could ask one last question, Madam Chairman, what about recruitment? How is your recruitment? How does this compare now to last year at this time, and has it been impacted at all by the attacks on our Nation?

Admiral LOY. We have been watching for a bump, sir, and we actually went back and did some exploration about the same kind of a period before and after crises that the Nation has faced in the past. We have not seen a patriotic bump in recruiting, nor have the other four services, to my knowledge, and I have asked my personnel human resources guy to be touching bases with the other services, but recruitment in general, sir, we are doing okay.

I think it is the nature of the other kinds of things that the Coast Guard does, in addition to national security requirement kind of business, that attracts an awful lot of very terrific young Americans, so we are doing fine with recruitment. We are not seeing any kind of a bump.

Senator STEVENS. The flip side of that coin is reenlistment. How is that? Is it up or down?

Admiral LOY. We are about even at the moment, and we are expecting, as a result of what this Congress and the past several have concentrated on in terms of pay raises and health care adjustments and retention—I am sorry, retirement adjustments, we are expecting probably about a 5 percent positive tick up as it relates to our retention in fiscal 2002, and we are watching that very care-

fully, Senator Stevens, because all of this recruiting and retention issue, I have always been infinitely more concerned about retention than I have about recruiting, and the experience drain that the last 5 years or so of the nineties represented to all of the services was very, very real, but it looks like we are going to have a small comeback in 2002, sir.

Senator STEVENS. Would you permit me just one last question?

Senator MURRAY. Absolutely.

Senator STEVENS. Are we allocating enough money in the Coast Guard for recruiting and retention, Mr. Mead?

Mr. MEAD. I think you could always argue for a little bit more for that, frankly. I think there are some major unsettled areas in the Coast Guard's budget, and that is one of them, and I am most concerned, though, not with the recruitment and retention element. I am most concerned with these two large acquisitions and how much they are going to end up costing, and what they will actually be for, what their time line is going to be, and what the implications of that will be on other missions and other activities such as in the 17th District.

Senator STEVENS. It is not just the Coast Guard. They think we have been pushing money at modernization and acquisition and, as Congress does it, I do not think we have looked down the line at the requirement of people to man increased number of vessels, planes, et cetera.

I do not think we have really been fair with you in terms of anticipating the needs of the expanded Coast Guard or Air Force, whatever. I am worried about our reenlistment rates, particularly in the area of pilots, and I am worried about the training rates in terms of people for these new activities, particularly in the area of port security. We cannot continue to borrow. When you borrow from an area like ours, you have to pay it back. We need replacements in the system to do that.

Admiral LOY. Yes, sir. Your comments are right on target. There are probably three specialty areas that we have been watching with some concern, fixed wing pilots, naval engineers, and anybody with an IT kind of a background, especially, as I said, in the last 5 or 6 years.

The notion that the grass was always greener in the strong economy of the late nineties was driving a lot of people to make those kinds of judgments, but I think even—you never want to look for a silver lining in a dark cloud, but if there is one with respect to with a softening of the economy, a lot of people are making those judgments a lot more methodically today and staying in the service as opposed to leaving, and we are going to look for that, and I think we are going to get about a 5 percent positive tick in 2002 in our retention, sir.

Senator STEVENS. I would like to tie some of the educational aid money to some service and uniform as we expand that. We have got to look somehow at giving a little better push to people to sign up.

Admiral LOY. Yes, sir. The other thing with respect to the Deep-water project, we have had, looking over the shoulder of the project designers from the very beginning, the workforce implications of the project, so as it relates to competencies and skill sets and all

of that, we are very attentive to what we will need in the future workforce in the Coast Guard 20 years from now, 15 years from now, 10 years from now, as we watch our Deepwater assets come online.

Senator STEVENS. Thank you very much. Thank you, Madam Chairman.

#### DEEPWATER PROCUREMENT STRATEGY

Senator MURRAY. Mr. Mead, you alluded a moment ago to the Deepwater program, and you have done a major assessment of that. Prior to September 11 this program was considered to be a priority initiative to replace the Coast Guard's aging assets that operate in the deep water environment. Since September 11, the Deepwater program has suddenly been transformed into a priority for port security and homeland defense in the coastal environment. Do you think the Coast Guard should revisit its Deepwater procurement strategy in the wake of September 11?

Mr. MEAD. No, I would not revisit the strategy. They have been on this strategy for several years now, and what you really need—I think that bottom line on this is, you need to know how much the Deepwater project is going to cost, what it is going to buy and when, and how long of a time line it is going to operate on.

I think the acquisition strategy of trying to get three big contractors to give a proposal for the contract was sound, and a lot of people have thought, including us, that that was fairly innovative. The down side is that, unlike a traditional acquisition, you do not know how much exactly it is going to cost, or what it is going to buy, until they select a contractor. I am really—I am nervous about the time line here, and when I look at the Coast Guard's capital plan and the time line for Deepwater, the floor on it is about \$10 billion. Is that \$10 billion going to be spread out over 15 years, 20 years, 30 years, or is the project actually going to cost substantially more than that?

If you look at the 5-year capital plan, in the years 2004 and 2005, the capital plan allocates zero to shore facilities, and I expect the Coast Guard is going to probably need more than zero for their shore facilities during those years. Aids to Navigation is another, and homeland security, I do not think all of the cards are in on how much the Coast Guard is going to have to apply to that area.

I mean, there has really been not that many months since 9/11, and 9/11 was in many ways a case of first impression for the Coast Guard. The same comments apply to the National Distress System project, although to a lesser degree. Frankly, I think on some of the issues we mentioned, I think the Coast Guard should reflect on whether that 10 percent coverage gap ought to somehow be covered, and if the repair time ought to be decreased, that will cost money.

Now, do we do that, do we plan for that now, or do we wait 3 or 4 years and say, well, now we want to fix it?

Senator MURRAY. Well, Admiral Loy, last year the head of the Deepwater program, Rear Admiral Stillman, committed to us that by the time we marked up the appropriations bill this year he would be able to tell us precisely what we would be funding, and his words were, line by line and dime by dime.

It appears that you have slipped your Deepwater contract until the third quarter now, and as a result you are asking us to appropriate \$500 million into a black hole, the precise problem that Rear Admiral Stillman said would not happen again. What has led to this delay in your awarding of the Deepwater procurement contract?

Admiral LOY. Thank you, Madam Chairman, for asking that question. A number of things here. First of all, we can give you three versions of line by line and dime for dime today. It would have to be a proprietary brief so as to allow the competitiveness of the procurement to continue along that line, and so we can offer—and I think we have already spent a little bit of time with Mr. Rogoff—a proprietary brief that offers very, very good insight as to the specific assets that would be part of each of the proposals that are currently being scrubbed by our team, and then when we award the contract we will be able to do, line for line and dime for dime, the winner as it proceeds out over time.

So the point, and I am sure what Rear Admiral Stillman meant to say, is that—and he is absolutely right on target—if the timing of the hearing season would have been attendant to the expectant April award that we had on schedule as he testified last year, or as he spoke with you last year, we would have been doing exactly what he explained.

Our notion at the moment is that several things crept into that calendar. The first was the insistence by OMB that yet another independent review be undertaken, which was, in fact, accomplished by ASI. Secondly, I personally said I want at least 30 more days in the source selection scrubbing process, because we are facing a 20-year effort here, a multibillion effort for our organization, and whatever the little delay up front a month is, is worth it to make absolutely certain that we cross all the T's and dot all the I's and get it right.

So I think there is a very easy and solid explanation for the delay as it relates to a post 9/11 implication. Deepwater is infinitely more important to us on 9/12 than it was on 9/10, because what it will bring to the table with respect to its focus on C4ISR is interoperability, is capability, is modernized assets now rather than later, that will, in fact, have everything to do with adequate maritime security and the return to the mission areas that both you and Senator Stevens and others have discussed.

IDS was developed, interestingly enough, anticipating asymmetric threats. It is all about the simple mission task sequence we do for everything else. We surveil, detect, classify, identify, and prosecute. We do that in search and rescue, we do that in counterdrug, we do it in fish, we do that in maritime security, so the soundness of the strategy that was used to develop IDS is absolutely right on target for the post 9/11 environment, Madam Chairman. It only strengthens the requirement that this program is absolutely needed now, and must go forward, as Senator Stevens inferred.

Senator MURRAY. I am looking forward to seeing your dime-by-dime report.

Admiral LOY. We can arrange a proprietary brief now, ma'am, or if you prefer to wait until the contract is awarded.

Senator MURRAY. You already have \$300 million. You are asking for \$500 million more and the mission has changed, and we just want to make sure we know what the money is going for.

Admiral LOY. Absolutely.

#### NATIONAL DISTRESS SYSTEM AUDIT

Senator MURRAY. Mr. Mead, you just completed an audit on the Coast Guard's plan to modernize the National Distress and Response System. You talked a little bit about that. You said that the Coast Guard has eliminated important, critically important capabilities from their proposed new system in order to bring the cost of the system under control.

Admiral Loy, how do you respond to Mr. Mead's observation that you have dumbed-down the system and eliminated the capability to pinpoint the location of distressed boaters?

Admiral LOY. I think the notion here is this. In phase 1 of the contract, of the project, I am sorry, it was enormously important for us to get the full spectrum of what 100 percent would cost us, and what would the capability get that we paid for, and at lesser levels. When last year we were testifying, Mr. Mead was discussing the billion-dollar-plus proposals that were coming back from the three contractors involved with the NDRSMP contract.

We looked for and challenged each of them to show us where the step functions were that would offer us considerable savings for either less capability, what might be less reliability, what might be less recovery time to downed tower, or what might be even less coverage. We looked at those very, very carefully, and selected those.

In terms of the hard specs that went out with the RFP just last week, that would make good cost-effective benefit-to-cost decisions in favor of the project. For example, with respect to reliability, if we pushed a .9995 insistence on reliability, as opposed to .995—three 9's and a 5, instead of two 9's and a 5—we could spend an extra \$100 million for the program. I did not think that was a smart thing to do, in a benefit-to-cost analytical read, and so we chose to adjust that specification in the RFP to not spend that \$100 million.

The same thing has to do with system restoration, the notion to be able to restore it in 6 hours as opposed to 24 hours. We saved about \$100 million in that, we guess, or we think, by shifting to the 24-hour standard. The 6 would require us to literally have aircraft available on alert to carry people to those sites to restore the towers.

Senator MURRAY. Will this pose risks to mariners that are out there?

Admiral LOY. I think the risk to the mariner is infinitesimally small compared to the value we get out of the system. We are now asking for—the 24-hour system, first of all, affords us the chance to simply have the contractor construct portable towers and be able to get those portable towers to the replacement towers in a 24-hour window.

Senator MURRAY. I think it was Mr. Mead who said in his testimony in a hurricane it is one thing, but during other circumstances, can't it be done in 6 hours?

Admiral LOY. It will be done in between 6 and 24 hours. This 24 hours will be the standard we insist it be done within, but my notion is that to adjust the taxpayer's price tag for this system and to eliminate as many dots as we possibly can off of Ken's chart, we are serving the taxpayer well by accepting a business standard, if you will, with respect to the 6 and 24 issue, and the same thing then goes to the coverage gaps, Madam Chairman.

We could build 300 more towers and cost another, between \$200 and \$300 million to the program, and eliminate all of the dots on Ken's chart. My notion again is, we should be selective, and we always will have the opportunity in the wake of the project as it comes online to test it, see exactly what it is and tweak it for what it is worth.

What we should be concentrating on is the great positive that is going to accrue from this project, and I have a simple chart—

Senator MURRAY. Admiral, I would agree with you, but the last mile is always the most expensive, and when you do not eliminate all the dots, I sometimes worry the most remote areas where distress can be the most acute will be the ones we do not reach.

Admiral LOY. And we will have to make those marginal judgments, Madam Chairman, I could not agree with you more, but to build a \$1 billion-plus system where you can gain reliability coverage and the other dimensions we sought that I think are perfectly adequate to the challenge, we should be as cost-conscious as well as performance-conscious as we are going to be in this project.

Senator MURRAY. According to the IG audit that I saw, you eliminated the capability to transfer classified information as a part of the system.

Admiral LOY. Absolutely not. We have the ability to transfer classified information, the capabilities in the system with respect to direction-finding multichannel communications capabilities. I would be happy to offer, Madam Chairman, a briefing for you.

Senator MURRAY. The IG audit said that is true, and they also said you reduced your ability to talk to other fellow State agencies, including the DOD.

Admiral LOY. The communications capabilities and the requirements in the RFP that went on the street last week remain intact, Madam Chairman.

Senator MURRAY. Mr. Mead.

Mr. MEAD. We will stand by what we said in our report, and we will get together with Admiral Loy to reconcile what the differences are.

Senator MURRAY. I look forward to hearing from both of you after that.

Mr. MEAD. I think we all know that if, after this system is up, if a mariner in distress is caught up in one of these dead zones, guaranteed, we will come back and say, why didn't we close that.

Senator MURRAY. I cannot agree more, and invariably it will be somebody on this committee who will be representing that.

Admiral LOY. But that will cost us another \$500 million, and we just need to understand that.

Senator MURRAY. I thought that was the central purpose of the replacement to make sure we covered those gaps. You know, we

have a system out there right now. What we have is gaps. I thought we were eliminating the gaps.

Admiral LOY. We are trying very hard to eliminate as many of the gaps as possible, yes, ma'am.

Senator MURRAY. That is the committee's concern.

Admiral LOY. To go on, I think our challenges are going to be less about money, Madam Chairman, and more about things like property acquisition in terms of where we want to put a tower. If we need a tower in the Everglades, if we do need a tower in places—one of the Congressmen from Massachusetts has reflected on Mr. Mead's report and wondered about property in Chatham. Well, if we need property in Chatham with respect to a tower, that will be more a hurdle for us to get over, I am convinced that the dollars that the Congress and the administration are willing to spend on this project. That is going to be, I think—

Senator MURRAY. The problem, is that when we are asked for and appropriate the numbers for the NDRSMP we were told that it would eliminate the gaps. That is the expectation.

Admiral LOY. Yes, ma'am, and I owe you a very, very good read, am I able to do that at the 100 percent level, or am I able to do that at the 99 percent level, and where would the resultant 1 percent be.

Senator MURRAY. We need to know where that 1 percent would be. If it is on a mountain in the middle of the country, I am not worried.

#### CAPITAL BUDGET CONSTRAINTS

Let me move on. Mr. Mead, in your audit, you discussed how the combination of the Deepwater program and the National Distress and Response Program runs the risk of crowding out other critical Coast Guard procurements, including procurements necessary for Search and Rescue.

In the 2002 Appropriations Act, we prohibited the Coast Guard from going forward with the Deepwater Integration contract until the Director of OMB and the Secretary of Transportation certified to us in writing that Coast Guard's capital investment plan and OMB's budget targets fully incorporates the needs of the Deepwater program, the National Distress and Response System, and other essential Search and Rescue procurements. Based upon your audit, do you believe that the OMB Director and the Transportation Secretary can legitimately certify to us that they have budgeted adequate funding to finance all of these needs?

Mr. MEAD. Well, I am glad—it is not my responsibility, of course, to make that certification. That is the Coast Guard and the Secretary and the Director of OMB, but before I would put my name on the dotted line in order to certify to you that everything is fully funded, I would want to know how much it is going to cost, and what I was going to get for it, and I personally would have to wait until I understood which contractor was going to go into it, and what that contractor's line-by-line was, for which ship, when, and I also would want to know, as Admiral Loy puts it, when Deepwater will come of age, and the implications that is going to have for the funding stream.

There are two elements of this certification, Senator, and one element is that the Coast Guard have in its capital plan funding within the OMB targets. I could say right now, yes, they have done that. It is within the OMB targets. It has been submitted with the budget of the Department.

The other element of this is that it is fully funded, and that implies that I know exactly what I am going to buy and what I need, and I do not know that yet.

Senator MURRAY. Admiral Loy, when are we going to see the certification occur? Will it be before we know who has the contract?

Admiral LOY. Yes, ma'am. The certification, as I understand it, has already cleared both OMB and the Department.

Senator MURRAY. So we have the certification, but as Mr. Mead points out, we do not know who the contractor is yet, so the cost could change.

Admiral LOY. The cost parameters of the RFP on the street remain affixed, Madam Chairman, and it is all associated with the 1998 baseline, \$500 million a year over the course of approximately 20 years.

Now, we fully expect—and this notion of will it be 20 or 30, that is all about, across that 20 years there is very likely to be variations as the Congress considers the annual request that is forthcoming from the administration each year, so if, in fact, for example, there would be a couple or \$400 million with the 1998 baseline, \$400 million a year, would that mean that the project was a 22-year project instead of a 20-year project? You see what I mean.

Those variations are certainly possible as the Congress exercises its authority each year and as the administration makes its request each year, but the certification is already cleared, and I was actually hoping I would be able to bring it to you this morning, but the Director has not yet signed it over at OMB.

Senator MURRAY. How much is assumed to be budgeted for other critical Search and Rescue procurements under that certification?

Admiral LOY. Across multiple years? I will get you those numbers, Madam Chairman. I do not have the 2004 or 2005 numbers in my head in terms of the rest of the improvement for the SAR program that is the game plan for SAR. That Mr. Mead's staff was just briefed on the other day and found to be very satisfactory, but I can get you those numbers.

Senator MURRAY. Well, I think what concerns me is, we are certifying it before we know how much it is going to cost, what we are going to get, and what other critical missions—not missions, but housing facilities, shore facilities are going to be crowded out as a result of that.

Admiral LOY. Yes, ma'am, and of course CIP, as we all know, within the restraints associated within the mechanics of producing it each year, are keyed to projections and keyed to projections limited by, I think it is a 2.0, or 2.2 percent associated rise inside the OMB projections, so if you look backwards each and every year when our real needs had been adequately expressed to the Director, the request for our AC&I levels on those attendant years have been attendant to the needs of the organization, so it is not that I ignore the notion of what the CIP is all about, but we have to,

I think, take it with the notion of understanding the mechanics required to produce it.

#### SEARCH AND RESCUE ENHANCEMENTS

Senator MURRAY. Let me change topics entirely, Admiral, and ask you about a report the Coast Guard issued about the March 2001 tragedy in which two Coast Guardsmen lost their lives at station Niagara, in the Great Lakes. That report reiterates many of the findings of the IG regarding the lack of adequate training for boat crews, and the lack of adequate equipment.

One of the recommendations of that report is for all Coast Guard Search and Rescue personnel to be issued their own antiexposure suits. Is that recommendation fully funded in your fiscal year 2003 budget?

Admiral LOY. Yes, ma'am.

Senator MURRAY. It is?

Admiral LOY. Yes, ma'am.

Senator MURRAY. Another recommendation from that report is that the Coast Guard should rapidly pursue the National Distress Response System authorization project, particularly the asset tracking components. Has your newly configured National Distress Response Modernization project eliminated any aspect of your ability to track the whereabouts of Coast Guard Search and Rescue assets?

Admiral LOY. No ma'am. Asset tracking remains a critical feature of the new system, and absolutely an imperative in the RFP. Beyond that, just because in the wake of Morning Dew several years ago and, of course, Niagara and any other kind of an incident like that, we try not to wait, if we can, so a couple of the features associated with the lessons that we learned from those experiences are already in place.

For example, the direction finding capability, the digital voice recorders, I just was down, for example, at our station on Lake Pontchartrain in New Orleans at the beginning of the week, and went directly to their command and control center to see precisely whether or not that capability was there, and in fact was delighted that it was.

So as part of the staffing increases that you have directed, that is a net gain for us in terms of command supervision and capability staffing, obviously with respect to boat crews and boats themselves, but the specific answer to your question, asset tracking, absolutely part of the requirements on the street.

Senator MURRAY. One of the findings of the investigation was that, the chain of command failed to have a common understanding of the level of risk, or of various Search and Rescue missions. Do you think that is a common problem?

Admiral LOY. We have watched that very carefully, and this was about several things, Madam Chairman. It was about, for example, should we have a national standard with respect to communications checks from deployed assets—in other words, should they check in every hour, should they check in every 15 minutes?—and we believe there is a requirement for a national standard to then be—to be delegated to the local commander, or something higher than the national standard in areas like that.

So we are looking with respect to check-in times, with the adequacy of the size of boat crews, all those things are being very much reviewed in the wake of not only Morning Dew but the Niagara as well, and I think we have a handle on the national standard issue.

We then want to be able to make sure that if the Officer-in-Charge of a station in the middle of a storm, as opposed to a bright, sunny day, or night as opposed to day, wants to challenge and raise the standards of performance for his boat crew and for the supervision and oversight, he has the ability to do that.

Senator MURRAY. When we think of the need to improve Search and Rescue, we commonly think of permanent individual stations, but the finding of that investigation said Group Buffalo lacked an awareness of ongoing Search and Rescue Station operations. That is a pretty disturbing finding. How is it that your Group Commanders did not have an appreciation of the ongoing operations of their Search and Rescue Stations?

Admiral LOY. Well, I am concerned about that as well, and the administrative investigation for the Niagara incident is just about finished. It actually parallels and tracks pretty closely with the mishap analysis, which is what was published at the end of last week.

If the investigation reveals either on the specific case that this Group and its doctrine was not overseeing adequately the Station's performance as the stations are distributed around the group, we will deal with that. I think the doctrine that I have reviewed in our Search and Rescue Manual is sound with respect to the oversight responsibilities of the Group Commander to the stations that they actually have in their group.

Senator MURRAY. Is this a problem that is Coast Guard-wide, and if so—

Admiral LOY. Yes, ma'am. That is the issue I was concerned about.

Senator MURRAY. Were there any initiatives in your budget request that will help us address that?

Admiral LOY. The issues in the budget request that would help us address that would be about Group and Command Center staffing adequacy, again which was part of Ken's audit over the course of the last year, and we are inserting, if you will, into the Group Offices, the Command Center staffing, greater numbers so that we are not dealing with fatigue factors, for example, or we are not keeping somebody up 24 hours, when in fact he should be getting a good, solid night's rest.

Mr. MEAD. Madam Chair, I would just like to reiterate, we do think the Coast Guard has a good plan that is responsive, and obviously nobody counted on 9/11 coming along, and the clear test, of course, is going to be in its execution, but the plan that we were briefed on was substantive, it was solid, there was not a lot of puff, and I think if they go forward with dispatch and execute it, that you will be quite pleased.

#### NAVY SECURITY INITIATIVES

Senator MURRAY. Let me ask you about your Navy support, Admiral. Immediately after September 11, you began discussions with

the Navy to substantially improve the capability and interoperability of Coast Guard cutters for homeland defense that included improved weapons, communications systems centers, and protective equipment items that the Navy had purchased for the Coast Guard in the past.

At one point I know you were hopeful of receiving \$240 million, but in the end they provided you with only \$2 million. What does that tell you about their level of support?

Admiral LOY. I think we have to take the bigger picture first, Madam Chairman. I mentioned earlier the first phone call I had on 9/11 was about Secretary Mineta and standing up the reserve arm. The second phone call I got was from Admiral Clark, Admiral Vern Clark, the Chief of Naval Operations, a very strong phone call offering to me the full support of the Navy as necessary.

We have had a number of very solid meetings, and the work-up that we are currently engaged in with respect to the anticipated spring supplemental has a very strong Coast Guard set of requirements being reflected in the Navy's request that will go forward.

Senator MURRAY. Will that be in the Navy's request?

Admiral LOY. Yes, ma'am. I cannot tell you what happened outside of the Navy and the rest of the efforts in DOD, but you need to be aware that at the Navy level, the Navy-Coast Guard level understands the thing you just mentioned about the kinds of things that have been funded in the past, and they take their responsibilities very seriously.

Senator MURRAY. Some of the equipment enhancements, it appears to me, that are in your budget request are the same systems you hope the Navy would do for you 4 months ago. Are we going to see those requests from the Navy?

Admiral LOY. We deconflicted, if you will, that set, that list.

Senator MURRAY. That must be a military term.

Admiral LOY. They are not overlapping. We do not have things on both lists, and so the kinds of things that we would be seeking from the Navy have to do with sensing and interoperability, and weapons and ammunition.

Senator MURRAY. So we are not going to see duplicative requests?

Admiral LOY. Exactly. That is what we are guaranteeing as we build the spring supplemental.

Senator MURRAY. Let me just make sure, did everything come off the Navy's list and come through your request to us, or did they take any of it?

Admiral LOY. They took a good bit, yes, ma'am, in terms of what it is that they are going to seek on our behalf in the spring build.

Senator MURRAY. I will be looking forward to seeing that.

Admiral LOY. I will keep you posted precisely on the things on the list.

The other thing I was going to add, Madam Chairman, is, Admiral Clark also made some very significant decisions that have been enormously helpful. For example, they were about to decommission the Cyclone class patrol craft. Currently, those 13 assets are available, 13-170 foot patrol craft with full Navy crews are being employed by Coast Guard Commanders at various ports around the country, including Puget Sound, so that was probably a \$65-million

decision he made, just because he knew it was the right thing to do, and his personal, and Secretary England's personal attention to understanding how the Navy can supplement, complement, and help the Coast Guard in its responsibilities for the maritime security piece have been admirable.

#### PORT SECURITY CHALLENGES

Senator MURRAY. Let me switch topics again, Admiral. Seattle and Tacoma are two of the largest container ports in the country. They are also cities with particularly bad heroin problems. Some people have speculated that those two facts are related, that the amount of container traffic from Asia passing through our ports and Vancouver contribute to the drug abuse problems, and when we think about the need to improve port security, containers pose a very difficult challenge, I think we can all agree.

Right now, Coast Guard and Customs are only able to inspect, as I understand, about 2 percent of the containers that are in the U.S. How is that percentage going to change as a result of the fiscal year 2003 budget?

Admiral LOY. Madam Chairman, I think the whole notion of Maritime Domain Awareness, you might recall the five points I mentioned in terms of the challenge that we all have looking forward to a maritime security plan for the Nation. I believe information is the key to our insight to doing a better job with respect to doing a better job with container security in this Nation.

As we speak, I have a delegation over in London working with the International Maritime Organization to take on the challenge of grappling with this container security issue at the international level. More importantly, in the United States, Secretary Mineta has asked MARAD and Coast Guard and the other interested elements—because it is a transportation dilemma. 6 million of these things come into our seaports, 17 million of them come into our country, the other 11 coming across the Canadian border or the Mexican border on trucks or trains or whatever.

So this issue I believe is, from the maritime security perspective, the number 1 challenge for our Nation to get our arms around. Whether it is in Puget Sound and a connection to counternarcotics, or whether it is anywhere else across the linear borders with Canada and Mexico, or the ports and waterways of our country, container security has to be dealt with.

Senator MURRAY. How long is it going to take the IMO to come back with recommendations?

Admiral LOY. I have accused them of being glacial in their pace of activity often, but I have a dedicated Secretary-General's promise that we will gather from this year, by December of this year some constructive efforts not only with respect to container, but credentialing of international seamen.

200,000 sailors come to the United States on commercial ships on an annual basis. We need security plans for vessels and passenger terminals and off-shore structures. There is a half-dozen or more very right things for us to be grappling at the international level to raise the standards in the classic notion that a rising tide will raise all boats.

Senator MURRAY. Do you really think we can depend on nations that originate these shipments to give us the kind of security we want here?

Admiral LOY. Certainly not exclusively, absolutely not. In fact, many of the nations of the world, as we all know, will find it enormously difficult to have the assets necessary, financial or otherwise, to make the commitments we are asking for.

But the marketplace is the United States, and if, in fact, they choose to continue, whether it is shipowners, or charterers, or insurers, or anyone else, if they choose to continue to do business in the United States, akin to what you suggested earlier, ma'am, where what happened in the aftermath of the EXXON VALDEZ, and a decade's worth of experience of watching the United States set standards to which the rest of the world then rallied to, my guess is we will be doing the same thing with respect to maritime security.

Senator MURRAY. If we cannot keep heroin out of containers, it is hard to believe we could keep other lethal products out.

Admiral LOY. Yes, ma'am, it is a nightmare scenario that I wake up with every night.

Mr. MEAD. We are auditing container security this year. It is very interesting, one component of the audit we want to include is the trends in containers coming to this country, what the trend line looks like, so you can see what type, the magnitude of the problem, and also this is a big cross-modal issue, because it used to be that a container you put on a ship you could not put on a truck. You had to take stuff out and put it in another container. Now, you can lift it and go, and you can put them on trains, you can put them on trucks, and it is truly a cross-modal issue.

Senator MURRAY. It is a huge economic impact, and so I will be looking forward to that.

Admiral LOY. That is the challenge, ma'am, absolutely. We all understand that the economic, or our prosperity is built on our economic foundation, and at the same time we are trying to identify the small percentage of the bad guys—I do not know what that number is, 2 percent, 5 percent—we want to be identifying the good guys and actually facilitate their commerce through our system.

But Hart-Rudman, the study that Senator Hart and Senator Rudman did, that was precisely the dichotomy, the economic, the balance between facilitating commerce on one hand and being concerned about security on the other.

Senator MURRAY. It is a challenge.

Admiral LOY. Yes, ma'am.

#### COAST GUARD'S NEW SECURITY TEAMS

Senator MURRAY. Admiral, as you know, the Committee doubled the number of Marine Safety and Security Teams you requested in the 2002 supplemental. One of those teams is going to be located in Puget Sound, so the Coast Guard does not have to continue to divert its Search and Rescue assets in order to provide force protection for the Navy. When do you anticipate commissioning that new unit?

Admiral LOY. I do not have a date for you, ma'am, but it is very quick. The four from the supplemental will be augmented by two more in the 2003 request to an initial inventory of six. The four sites, Puget Sound, Norfolk, LA/LB, and Houston-Galveston, are set for the four that came from the supplemental. I will get you a date, and frankly, I would be delighted if perhaps we could gather at that date and cut a ribbon.

Senator MURRAY. Do you anticipate sooner rather than later?

Admiral LOY. Absolutely, yes, ma'am.

Senator MURRAY. Any hint at what sooner rather than later means?

#### COMBINING COAST GUARD WITH OTHER AGENCIES

Admiral LOY. I will call you this afternoon, if I may.

Senator MURRAY. Admiral, we read with interest about the debate within the Administration over whether the Coast Guard should be combined with the Customs Service and the INS into a new megaborder security agency.

Now, I recognize this could be a difficult issue for you to talk about, but since this is your last hearing I wanted to give you an opportunity to give us your personal view on that question, recognizing that the Administration has not yet reached a position on this. What are your personal thoughts about the merits of combining the Coast Guard with all of those other agencies?

Admiral LOY. It is a very complex question, and it is attendant with all kinds of porcelain that people do not like to see broken pieces of in terms of turf, whether it is Committee structures on the Hill, or organizational structures in the Administration.

My thoughts at the strategic level are these. We chose to reorganize the Department of Defense in 1947, not 1944 or 1945. I think that is instructive. We waited for the crisis, World War II to be over, and then we reorganized the Department of Defense. I think good old management 101 suggests do not reorganize in the middle of a crisis, and do not leap to a notion that moving boxes around on an organizational chart is necessarily going to improve whatever it is you are trying to improve.

A second notion, also sort of management 101, I guess, is that form should follow function, and that suggests to me that the much more important discussions to be having right now are the functionality discussions. If we can find areas, whether it is port of entry inspection services, whether it is between ports of entry, whether it is inclusive of the exclusive economic zone and the territorial sea, whether we can do—we have a criteria set. Can we be more efficient, can we be more effective, can we serve customers better, and can we enhance security?

If any of those four, or some combination of those four criteria would be served well after a solid functionality review—

Senator MURRAY. So are you suggesting that maybe part of the agency, part of some function can be—

Admiral LOY. No, ma'am. I am looking at the service provided. For example, at a port of entry, if we see someone carrying their customs declaration form, whether it is an airport, or whether it is a linear border port of entry, go and have to show it to this person with this uniform on, or that person with that uniform on, and

this person with this uniform on, if there is an efficiency process that we can gauge there, we should take a very strong look at doing that more efficiently, that function more efficiently than in the past.

From the Coast Guard's perspective, because of the lessons we learned for the millionth time on 9/11, we should not be in the business of slicing and dicing mission areas of our organization. What the American taxpayer gets best from the Coast Guard is for a single overhead, all of those missions accomplished. That should be sacrosanct, as should our military nature, because of the discipline that it brings to what we do for America.

But the other important thing to take stock of at the moment, Madam Chairman, is that TSA represents an enormous undertaking for the Secretary of Transportation. The Congress has seen, with the Administration, in its wisdom to provide that challenge to Secretary Mineta. TSA eventually will be about more than aviation. It will be about the maritime sector, it will be about the others as well. Wherever the synergies associated with what is trying to happen in our transportation security system is being served, we do not want to trade synergies here.

I think at the moment that for the foreseeable future we belong still in transportation because of this transportation security issue, which is multimodal in nature, and the maritime piece. Secretary Mineta needs to have that well-served for him in the Department.

Senator MURRAY. To that point, the new TSA, as you said, is responsible for all modes of transportation, and we are told that Secretary McGaw intends to appoint an Associate Under Secretary for Maritime Security, and we are told that DOD may also be appointing a new Commander in Chief for the Security of North America. How does that chain of command work in the Coast Guard function under either of those two new structures?

Admiral LOY. With respect to TSA, I believe that because they already have in the Coast Guard an organization that does all of the line work out in the field, there will be more of a liaison relationship with TSA and an oversight relationship of Under Secretary McGaw, and serving Secretary Mineta in that regard. They are not having—for example, they are having to stand up a 40,000 person organization, or whatever the number is at the moment, but most of those people will be focused on aviation security and the wherewithal to do what we need to do there.

Senator MURRAY. My basic question is, who is going to determine the posture of the Coast Guard's maritime security efforts? Will it be the Commandant, will it be the Transportation Security Administration, will it be the new CINC who will be making those decisions?

Admiral LOY. I will be developing the plans and seeking Secretary Mineta's and the President's blessing on the maritime security plan.

Senator MURRAY. You would be determining what those plans are?

Admiral LOY. Yes, ma'am. With respect to the new CINC, it is important for the Committee to know that literally from day one, if you will, on 9/11, we have been immersed in the work going on at Joint Forces Command down in Norfolk and with NORAD in

Colorado. Those two are the elements that will be the core around which NORTHCOM—if that is, in fact, what occurs and the President agrees, NORTHCOM will have the homeland security responsibilities that DOD will bring to the table.

It has already been—the designwork already has the Coast Guard as the lead agency for the maritime sector, as supported by a host of others in terms of what would be brought to the table for that new CINC, the homeland security chief in DOD, so in both cases we are already integrated as the maritime sector lever, if you will, in terms of getting the job done.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator MURRAY. Admiral, again, as we end this hearing, let me just thank you for your tremendous service to this Nation, and I wish you the best in your future service, wherever that may be. I am sorry this is going to be your last opportunity.

Mr. Mead, obviously, fortunately for us, unfortunately for you, you will be back again, but we appreciate your service as well.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED TO ADMIRAL JAMES M. LOY

##### QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

##### VESSEL TRACKING SYSTEM

*Question.* What progress have you made in working with the ports to identify and implement some sort of vessel-tracking system?

*Answer.* The Coast Guard worked directly with the port industry in conducting Port and Waterway Safety Assessments in 30 ports to determine if a Vessel Traffic Service was needed to ensure a safe and orderly flow of marine traffic. Although these assessments had a safety focus, the information gathered in this process has been applied to determine if some sort of vessel tracking system was needed to enhance port security.

The Automatic Identification System (AIS) will be the cornerstone sensor for vessel tracking in ports, port approaches, offshore areas and inland waterways. The Coast Guard has been working with ports and port users to test and develop AIS before its eventual phased-in deployment beginning in July of 2002. The Coast Guard is also working with the International Maritime Organization to accelerate the implementation date of AIS. The accelerated implementation schedule, if adopted, will require foreign commercial vessels arriving in the U.S. to have AIS by July 2004. A plan for establishing the AIS shore side infrastructure is being developed. This plan will deploy AIS receiving stations in strategic sites to monitor commercial traffic.

The Coast Guard's National Vessel Movement Center is an administrative form of vessel tracking system utilizing a system of pre-arrival reporting. The Coast Guard worked closely with the marine industry in implementing this 96-hour advance notice of arrival system and continues to work with vessel operators and agents in operating the system.

The Coast Guard is also working with our counterparts in the Department of Defense and local response organizations to determine where vessel tracking and monitoring systems are needed to protect critical assets and infrastructure.

The Coast Guard's budget request reflects our highest priority needs with respect to Vessel Traffic Service and Automatic Identification System installations.

##### BENEFITS OF THE INTEGRATED DEEPWATER SYSTEM PROJECT

*Question.* Can you discuss the benefits of the Coast Guard's Deepwater Project, particularly its role in addressing the Coast Guard's aging fleet of cutters and aircraft?

Answer. The Coast Guard's current fleet of deepwater ships and aircraft are aging and technologically obsolete. As a result, they lack fundamental capabilities and technologies necessary for efficient and effective mission performance. These capabilities include sufficient cutter speed, proper sensors and night operations capability on cutters and aircraft, interoperability between cutters and aircraft, adequate communications, and access to mission critical information. The lack of commonality between classes of ships and aircraft classes has also created major logistical and supportability hurdles and increased training requirements.

The Integrated Deepwater System (IDS) will reverse the erosion of the operational effectiveness currently being experienced due to obsolescence and aging of Coast Guard cutters, planes, sensors and communications systems. Without the IDS, replacements would not be available in time to prevent a dramatic drop in operational effectiveness.

The Coast Guard Integrated Deepwater System Program will renovate, modernize or replace aging cutters and aircraft that are approaching their end-of service life. Rather than replace the deepwater assets on a one-for-one basis as done in the past utilizing the traditional Federal acquisition paradigm, the Integrated Deepwater System Program is implementing an innovative Mission-Based Performance Acquisition approach that describes the capabilities needed to perform Coast Guard missions in the deepwater environment. The assets procured through the Integrated Deepwater System Program will be interoperable, employ state-of-the market technology, and be specifically designed to provide the Coast Guard the capabilities needed to perform current deepwater missions as well as future missions.

#### DEEPWATER OPERATIONAL CAPABILITY IMPROVEMENTS

*Question.* How will the Deepwater Project improve your operational capability?

Answer. The Integrated Deepwater System Program will improve the Coast Guard's operational capability. The overarching goal of the Deepwater Program is to maximize operational effectiveness while minimizing total ownership costs.

Existing legacy cutters, aircraft and C4ISR lack capabilities and technologies necessary for efficient and effective mission performance. These capabilities include sufficient cutter speed, proper sensors and night operations capability on cutters and aircraft, interoperability between cutters and aircraft, adequate communications, and access to mission critical information. The lack of commonality between classes of ships and aircraft classes results in major logistical and supportability hurdles, as well as increased training requirements. Legacy (current) ships and aircraft are aging and are technologically obsolete.

As outdated technology ultimately increases operating and maintenance costs, it also places greater demands on the Coast Guard's infrastructure. System and component manufacturers cancel production and support for old equipment and parts, while labor costs increase. Cutter and aircraft operational availability decreases thus limiting their effectiveness.

Interoperability is built in from the beginning by considering and designing deepwater assets as components of an overall Integrated Deepwater System. There will be improved data link capability on major cutters and data link capability between smaller cutters and aircraft. Deepwater assets will be able to implement a modern network-centric concept of operations. Just as with Navy task forces, Deepwater assets will be connected via data links and will automatically be able to share tactical information in real time. Coast Guard Deepwater assets will be able to implement the Navy/Coast Guard National Fleet Policy by providing more capable assets for joint operations.

#### BENEFITS OF DEEPWATER SYSTEM ACQUISITION APPROACH

*Question.* Can you discuss the benefits of the systems acquisition approach for the Deepwater Project? Was this approach based on operational considerations? If so, in what ways will it make the Coast Guard more effective than a more traditional asset-for-asset replacement program?

Answer. The "systems of systems" acquisition approach for the Deepwater Program was based on operational considerations. The Coast Guard's current fleet of deepwater ships, aircraft, logistics support systems, and C4ISR are aging and technologically obsolete.

Rather than replace the deepwater assets on a one-for-one basis utilizing the traditional Federal acquisition process, the Deepwater Program is a performance-based acquisition to replace current capabilities. This performance-based acquisition differs from the traditional type because the Coast Guard focuses on performance specifications for an integrated system of assets based on operational capabilities needed to perform the Coast Guard's seven federally mandated missions. The assets pro-

cured and the upgrades to existing CG equipment will operate with each other, with other agencies, employ state-of-the market technology, and be specifically designed to provide the Coast Guard the capabilities needed to perform current deepwater missions as well as future missions.

This type of innovation and integration would be much more cumbersome if attempted as separate, distinct acquisitions.

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QUESTION SUBMITTED BY SENATOR PATRICK J. LEAHY

BURLINGTON, VERMONT BREAKWATER

*Question.* Last year's Transportation Appropriations Bill included language that was part of the Senate-passed version of the bill securing funds for a waterways aids to navigation project in Burlington, VT. The language reads: "Within the funds provided, the Committee directs \$250,000 to be available only for the construction and installation of two aids to navigation on the Burlington, Vermont Breakwater to replace the existing dated equipment." ADM Loy, after passage of the bill I wrote to you on January 7, 2002, seeking to work with you on completing this project. A copy of that letter is attached. Since I have yet to receive a response from you, I will take this opportunity to seek clarification:

What is the status of these aids to navigation along the Burlington Waterfront? And what is the Coast Guard doing to follow-up on the Congressional directive for this project?

*Answer.* The aids to navigation currently in place are appropriate to our navigation system and serve mariners' interests properly. The funds identified in the appropriations bill are adequate to replace the current structures with a more contemporary design however.

In May 2002, the Coast Guard's regional office engaged the City of Burlington and the Maritime Heritage Museum to discuss various options for replacing the present structures using funds identified in the appropriations bill.

Officials from the City and Museum indicated their intent was to receive the funding appropriated for this project as a grant, which is not consistent with the current appropriations language. The Coast Guard will do everything possible, in accordance with appropriations law, to meet the desires of the local constituents. The local officials have indicated they desire grant funding and will approach their legislators for appropriations language consistent with their objectives.

Attached please find a copy of Admiral Collins' March 22, 2002 letter response to you.

U.S. DEPARTMENT OF TRANSPORTATION,  
U.S. COAST GUARD,  
Washington, DC, March 22, 2002.

Hon. PATRICK LEAHY,  
United States Senate,  
Washington, DC.

DEAR SENATOR LEAHY: This is in response to your inquiry of January 7, 2002, on behalf of the City of Burlington, Vermont, and the Lake Champlain Maritime Museum, regarding replacing breakwater lights with historically consistent structures.

The Senate Mark report identified \$250,000 for the Burlington project "to replace existing dated equipment." While the current structures have many years of service life remaining, given your interest and the multi-million dollar rehabilitation of the breakwater, we will work with the interested parties to identify possible replacement structures. Replacing the present structures with historical wooden replicas may be problematic and dependent on the scope of the breakwater's rehabilitation. A substantially larger financial base will be required to support a historical structure. Since replacing the present structures with wooden replicas is beyond our normal scope of business due to the susceptibility of ice damage and the costs associated with follow-on maintenance efforts, it might be in everyone's best interest to investigate the usage of private aid-to-navigation procedures to meet the community's aesthetic interests.

Congress is actively moving the Coast Guard away from a role in historical structures through legislation such as the National Historic Lighthouse Preservation Act of 2000. Our purpose remains to help the maritime community manage transit risks associated with collisions and groundings by providing the right short-range aids-to-navigation signals with an economical life cycle cost to taxpayers. I am confident that my district officials can continue the positive discussions with your local con-

stituents and develop an appropriate plan that meets everyone's desires and can be accomplished within the prescribed funding constraints.

I hope this information assists you in responding to your constituent. If you have any further questions, please have your staff contact the Senate Liaison Office at (202) 224 2913.

Sincerely,

T.H. COLLINS,

*Vice Admiral, U.S. Coast Guard Acting Commandant.*

SUBCOMMITTEE RECESS

Senator MURRAY. The subcommittee stands recessed until the week of February 25, when we will take testimony on highway safety issues.

[Whereupon, at 12 noon, Thursday, February 14, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

**DEPARTMENT OF TRANSPORTATION AND RE-  
LATED AGENCIES APPROPRIATIONS FOR  
FISCAL YEAR 2003**

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**THURSDAY, MARCH 21, 2002**

U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS  
*Washington, DC.*

The subcommittee met at 9:35 a.m., in room SD-138, Dirksen  
Senate Office Building, Hon. Patty Murray (chairman) presiding.  
Present: Senators Murray and Shelby.

**DEPARTMENT OF TRANSPORTATION**

**SECURITY CHALLENGES FOR TRANSPORTATION OF CARGO**

**STATEMENT OF JOHN MAGAW, ADMINISTRATOR, TRANSPORTATION  
SECURITY ADMINISTRATION**

**ACCOMPANIED BY:**

**REAR ADMIRAL PAUL PLUTA, ASSISTANT COMMANDANT FOR MA-  
RINE SAFETY AND ENVIRONMENTAL PROTECTION, U.S. STATES  
COAST GUARD**

**JOSEPH CLAPP, ADMINISTRATOR, FEDERAL MOTOR CARRIER  
SAFETY ADMINISTRATION**

**ALLAN RUTTER, ADMINISTRATOR, FEDERAL RAILROAD ADMINIS-  
TRATION**

**ELLEN ENGLEMAN, ADMINISTRATOR, RESEARCH AND SPECIAL  
PROGRAMS ADMINISTRATION**

**CAPTAIN CHRISTOPHER McMAHON, MARITIME ADMINISTRATION**

**OPENING STATEMENT OF SENATOR PATTY MURRAY**

Senator MURRAY. The subcommittee will come to order.

More than 6 months have passed since the tragic events of Sep-  
tember 11. And since then we have been working to protect our  
country from future terrorist attacks. Just weeks after September  
11, Congress responded by appropriating billions of dollars to shore  
up our aviation industry and to improve security across our avia-  
tion system.

We passed the Aviation and Transportation Security Act, but it  
is important to remember that the act covered more than just avia-  
tion. It gave the new Transportation Security Administration re-  
sponsibility for ensuring security in all modes of transportation.  
Our security system is only as strong as its weakest link. As we  
work to make aviation more secure, I want to make sure we are  
not leaving other vulnerabilities open to those who would threaten  
us.

So today we are going to explore the state of security in the transportation of cargo, including hazardous materials. It is estimated that roughly one-third of the terrorist attacks that occur around the world are targeted on some aspect of transportation. Every day there are more than 800,000 shipments of hazardous material within the United States, mostly over our railways and highways.

Millions of dollars worth of goods enter our seaports each day from thousands of destinations and rapidly find their way onto those highways and railways. Much of that freight is identified only as "freight of all kinds." We know very little about the true identity of the shipper and we know even less about the true nature of the cargo. As I have looked at this, I have found major gaps in funding and regulations. We have a system that is designed to prevent accidents, but not designed to prevent deliberate attacks.

This morning's subcommittee hearing will focus on the vulnerabilities that surround the transportation of cargo, especially hazardous cargo, and what is and is not being done to better ensure security across our entire transportation system. As we look at this issue, I want to point out four challenges we will need to consider: the economic importance of moving goods quickly, how our major cities and ports are closely connected, the role of hazardous materials, and the inconsistent regulations and funding across all modes of transportation.

First, our cargo transportation system was designed with speed in mind. Many American industries have become more efficient and productive than their foreign counterparts by exploiting the benefits of just-in-time delivery. This has been an economic success story that no one wants to undermine.

A second challenge is our transportation infrastructure itself. Historically, our largest cities have developed around our major rivers and rail systems. Our interstate highway systems were designed to connect those cities. As a result, hazardous cargo moves through one population center or another every hour of every day. Similarly, most of our major ports are found at the waterside of our largest cities, be it in Seattle-Tacoma, Los Angeles-Long Beach, Newark-New York area, or Houston.

Across the Nation, waterside shipping terminals sit next to residential communities and busy commercial districts. Keeping people and cargo separated is for the most part unattainable.

A third challenge concerns hazardous materials like chlorine, which is used to purify drinking water. Transporting chlorine poses a security challenge, but we must remember that the American public relies on these and other hazardous materials in our everyday lives. We need to make sure that they can be transported safely.

A fourth challenge is the Federal regulatory and enforcement regimes that currently govern the transportation of hazardous cargos. Our government policies and regulations have largely been designed to prevent an accidental release of hazardous materials. They have not been designed to protect against a deliberate release. Many of the agencies within the Department of Transportation that are now charged with launching new security regulations are already behind in publishing regulations to maintain

transportation safety. We need to make sure that they can meet the existing safety challenges and the new security challenges effectively.

Taken together, all of these challenges will require strong and informed leadership. Frankly I am concerned about the leadership we have seen so far. Many in the transportation industry have told me the efforts to date have been characterized by a lack of direction, a lack of urgency, and a general confusion over who is in charge.

Our new Under Secretary of Transportation for Security, John Magaw, is responsible for security in all modes of transportation safety. However, the extraordinary challenges presented by the Aviation and Transportation Security Act have required us to focus almost entirely on aviation. As such, when it comes to trucking, railroads, pipelines, and our ports, the new security requirements have been left largely to the Federal Motor Carrier Safety Administration, the Federal Railroad Administration, the Maritime Administration, the Coast Guard, and the Research and Special Programs Administration. Somewhere in the middle of all of this the Secretary's office and the new Office of Homeland Security weigh in from time to time. While I am not an advocate of one size fits all solutions to the security problem, it is hard not to notice some of the glaring differences in the way different transportation industries are being handled by different parts of DOT.

In some industries, individual companies are being asked to develop their own security plans and submit them for approval by the Federal agency. In other instances, the agencies themselves are developing the security plans for industry. And in yet another, the companies are just being asked to have a plan in place with no agency review. We even find inconsistencies in what is and is not considered classified information. While the number of new Federal air marshals sought in the President's budget is classified, the number of new Coast Guard sea marshals is printed for all to see in the Coast Guard's annual budget.

There are even more significant inconsistencies in the funding levels requested in the President's budget. For aviation security, the President requested several billion dollars. For Coast Guard, the President requested historic funding increases. But for the Federal Railroad Administration, the Federal Motor Carrier Safety Administration, and the Research and Special Programs Administration, there are no major funding initiatives to deal with security in these transportation modes.

For port security, Congress funded almost a hundred million dollars in direct grants for security improvements at our ports in 2002. The President, however, in his budget request, has requested zero dollars, zero, for port security grants.

In the absence of clear leadership by the Administration, individual transportation industries have sought to stand up to the challenge. The major class-one freight railroads have sought to implement their own new security regime. So have some of the larger and more organized sectors of the trucking and chemical industries. But even they are working somewhat in the dark. No sooner did the railroad industry set up a new security regime pegged to four different security alert levels than Governor Ridge announced his new national system with five different security alert levels.

Clearly, we need to improve our communication, so that we are all working together as effectively as possible. And I believe we have got to focus on the weakest links in the system.

All of our efforts on transportation security will be no better than the effort of the least paid security guard manning the perimeter fence of a rail yard or a pipeline pump station. We have known for years about vulnerabilities in how States distribute commercial drivers' licenses. It should not have come as a surprise when it was discovered some months ago that known terrorists were obtaining commercial drivers' licenses with special endorsements to carry hazardous materials. It is precisely because terrorists go after the weakest link that we must not depend solely on voluntary measures by industry.

I commend the industries that have stepped up to the plate to do the right thing, but we must remember that hazardous materials are carried by more than just class-one railroads and major trucking firms. There are over 38,000 individual trucking firms, many that consist of only one truck, that are authorized to carry hazardous materials. Those truckers do not have the time, the money, or the desire to review the Federal Register to learn what new voluntary measures are being recommended by DOT. That is why we need comprehensible and enforceable policies that will govern the behavior of each and every one of them. We need more than just voluntary recommendations and agency advisories to take greater care.

My goal for the hearing this morning is to get answers as to who is in charge of these security functions. If the answer to that question is that no one is in charge, then I want to know who is going to take charge. How is our Federal Government going to attack the weakest links in our security system? And when precisely are we going to see real policies put in place to eliminate the vulnerability?

I am very pleased that so many distinguished members of the Administration have joined us today. Our Under Secretary of Transportation for Security, John Magaw, was required to reschedule events in Europe so that he could be with us today, and I appreciate that. And I appreciate his flexibility and attention to this very important issue.

We are also joined by administrators of the Federal Railroad Administration, the Federal Motor Carrier Safety Administration, and the Research and Special Programs Administration. We are also joined by the appropriate representatives from the Coast Guard and the Maritime Administration. And I thank all of you for being here for the hearing this morning.

#### STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you. Thank you, Madam Chairman.

After the attack on the World Trade Center and the Pentagon, most of the focus in countering the threat by international terrorists has been on improving the security of our aviation system. That focus is appropriate and must continue. We should not, however, lose sight of the need to improve security in other modes of transportation. We must identify all of our vulnerabilities and then develop more practicable countermeasures to prevent an attack.

Until we understand the full spectrum of potential threats to each mode of transportation, we run the risk of addressing relatively minor, self-contained problems with great vigor, while leaving potentially catastrophic threats exposed.

While assessing the vulnerabilities at our Nation's ports and pipelines, highways and railways, we should remember that the terrorist is capable of adapting his behavior and tactics to circumvent heightened security measures. The department must be just as nimble, or terrorists will have changed their behavior before the department has ever changed its assumptions about their behavior.

On the other hand, by adopting countermeasures to the greatest potential dangers and constantly reevaluating those procedures, we will not only be better prepared to meet the terrorist threat, but will also deter other criminal activity and reap other ancillary benefits, such as improved compliance with safety regulations.

I believe that a national transportation risk assessment is absolutely necessary. I also believe that we must conduct ongoing reassessments, considering the constantly evolving threat. I am keenly interested in Under Secretary Magaw's thoughts about the need for such a comprehensive evaluation and any progress the Transportation Security Administration has made along those lines.

Perhaps the greatest threat to the country comes from the use of conventional explosives in the short term and the use of weapons of mass destruction in the future. The fact that it is possible to either conceal a bomb in other goods or to use the material itself, such as hazardous material, as a weapon of mass destruction is what makes cargo an attractive target to those who intend to inflict maximum harm.

During the hearing this morning, it is my hope that the witnesses will address several concerns I have regarding the security of cargo in the transportation system. Specifically, we must establish an inspection system that stops cargo hiding a bomb or weapon of mass destruction from entering the United States. As long as we are able to check only a fraction of cargo entering the United States, Federal inspection agencies must screen all suspicious cargo and overlay a system of random searches, a big challenge.

Second, we must be mindful of the intermodal nature of cargo, whether shipped in containers or on pallets, and must use security issues from a cross-modal perspective. The department must adopt a comprehensive system that assures both the integrity of the cargo and the operators responsible for transporting that cargo.

Third, we must establish, I believe, clear lines of responsibility. A tug of war between the modal administrations blurs the authority and leaves no one in charge.

We also must balance important safety requirements with a new necessity to keep this dangerous cargo secure from attack. Madam Chairman, the enemy we face is determined to attack innocent Americans on our soil. They issue no demands, nor do they plot their escape. They simply try to inflict maximum harm by targeting us where we are vulnerable and by using our strengths against us.

I believe the President and the Congress agree on the need to provide the necessary resources to secure our Nation from the

threat of terrorism. As long as we maintain an open society that permits the free movement of people and cargo, however, we will be vulnerable to a certain extent.

I believe we will have to accept some level of risk, because we should not and will not live in bunkers. But it is our responsibility to reduce the risk to the physical infrastructure to all modes of transportation. I look forward to hearing the witnesses.

Senator MURRAY. Thank you, Senator Shelby.

We will now hear from the Honorable John Magaw, who is Administrator of the Transportation Security Administration.

Mr. MAGAW. Good morning and thank you, Madam Chairman and Senator Shelby. I am privileged to be joined this morning by my counterparts from the Department of Transportation: Administrator Joseph Clapp of the Federal Motor Carrier Safety Administration; Administrator Ellen Engleman from the Research and Special Programs Administration; Administrator Allan Rutter from the Federal Railroad Administration; Captain Chris McMahon, representing the Maritime Administration; and Rear Admiral Paul Pluta, from the United States Coast Guard. Also present here this morning, as is a practice of ours, the senior members of our staff from all of the modes are here, because we think it is important that not only do they hear your message first hand, but they understand it. It helps all of us to be more focused, but at the same time flexible, as we address all modes of transportation.

We appear before this subcommittee today to discuss the issue of cargo security. My oral statement this morning, Madam Chairman, is a short one. I ask that the full statement be entered into the record.

Senator MURRAY. Without objection.

Mr. MAGAW. Our Nation has entered a new era of security awareness. Nowhere is that felt more strongly than in the field of transportation, and both of you have referred to that many times in your opening statements. Secretary Mineta and the people of the Department of Transportation are working aggressively to expand and strengthen our country's security across all modes of transportation, be it aviation, rail, surface, maritime, pipeline, and transit.

As Senator Shelby mentioned, risk assessments are very important, because then it gives you the direction on which you can address these many, many issues and allows you to prioritize them as you move forward. We are working with our partners in State and local law enforcement, other Federal agencies, industry, labor, members of Congress, and the important staffs that they employ, as the Transportation Security Administration is being built, organized, and moves forward to address these critical transportation issues.

With the congressionally-mandated deadlines prescribed in the Aviation Transportation and Security Act of 2001, you are very accurate to say that Transportation Security Administration has devoted a great deal of its time to aviation-related security issues. However, in the past days and in the months ahead, our new organization will devote substantial attention to an intermodal approach, including maritime and surface transportation-related security issues.

I am pleased to announce that Rear Admiral Richard Bennis, U.S. Coast Guard, retired, will start next week as the TSA Associate Under Secretary for Maritime and Land Security. Admiral Bennis brings a wealth of security knowledge and experience to this job, not only from maritime security, but from all modes of transportation, and including cargo.

We also have the support and the expertise of other operating administrators as they sit here with me today. It is clear in our minds that TSA has the responsibility for all the security that you discussed. We are working collaboratively and consulting with each other, and we will talk more in detail about that later.

The Department of Defense Appropriations Act of Fiscal Year 2002 appropriated \$93.3 million to TSA for competitive grants, to enhance the facility and operational security at critical seaports. The broad agency announcement for a port security grant program has already been issued. We expect to complete the process and initial awards should commence in June. We are moving expeditiously to put this money to the best use.

In addition, we are making great strides in addressing one of our most critical transportation security challenges, and that is cargo container security. The most pressing security challenges have been addressed with the existing authorities. Now we must design and incorporate a network of protections that transforms a rapid response into a sustained effort that permanently integrates heightened security into all operations.

A week following the September 11 attacks, Secretary Mineta established the National Infrastructure Security Committee (NISC) to address security concerns in the surface modal transportation system. Since that time, the NISC has evaluated transportation infrastructure vulnerabilities and security protocols and processes.

Six million marine containers in our Nation's ports, along with 11 million truck and rail containers, cross the Mexican and Canadian borders into America each year. In December 2001, the National Infrastructure Security Committee established the Container Working Group to recommend improvements in the secure movement of these containers.

Cargo containers arriving at U.S. seaports today can be virtually anywhere in the heartland of America tomorrow by way of truck, rail, and air. Accordingly, any security measures must be fully integrated throughout all modes of transportation, as both of your statements so ably addressed.

All of us at the Department of Transportation are looking forward to working with this committee and other members of the Senate and the House in successfully reaching and maintaining the new standard of transportation security that the Nation not only needs but deserves. We will settle for nothing less, Madam Chairman. And that concludes my statement.

[The statement follows:]

#### PREPARED STATEMENT OF JOHN MAGAW

The Department of Transportation appreciates the opportunity to appear before the Subcommittee on Transportation Appropriations to discuss the issue of cargo security. Our Nation has entered a new era of security awareness since September 11 and nowhere is that felt more strongly than in the field of transportation. Secretary Mineta is working aggressively to build the security foundation the country

needs in this new era, from aviation to railways, highways, pipelines and waterways. The Department is working with its partners in state and local law enforcement, other government agencies, industry and labor and with the leadership and Members of the Congress.

Thanks to your help, we are making great strides in addressing one of our most critical transportation security challenges, cargo security, but we need to do more. While the most pressing security challenges have been met with existing authorities, we now must work to build a new network of protections, one that transforms what has been a rapid response into a sustained effort that recognizes heightened security as a part of normal operations. In addition, cargo security depends on the users of the system, shippers and operators, and affects the trade corridors they use.

The new threats and opportunities of the 21st century demand a new approach to border management. The United States has a 7,500-mile land and air border shared with Canada and Mexico and an exclusive economic zone encompassing 3.4 million square miles. Each year, 11.2 million trucks and 2.2 million rail cars cross into the United States, while 7,500 foreign-flag ships make 51,000 calls in U.S. ports. The massive flow of people and goods across our borders helps drive our economy, but can also serve as a conduit for terrorists, weapons of mass destruction, illegal migrants, contraband, and other unlawful commodities.

President Bush envisions a border that is grounded on two key principles: First, America's air, land, and sea borders must provide a strong defense for the American people against all external threats, most importantly international terrorists but also drugs, foreign disease, and other dangerous items.

Second, America's border must be highly efficient, posing little or no obstacle to legitimate trade and travel.

America requires a cargo management system that keeps pace with expanding trade while protecting the United States and its territories from the threats of terrorist attack, illegal immigration, illegal drugs, and other contraband. The border of the future must integrate actions abroad to screen goods and people prior to their arrival in sovereign U.S. territory, and inspections at the border and measures within the United States to ensure compliance with entry and import permits. Federal border control agencies must have seamless information-sharing systems that allow for coordinated communication among themselves and also the broader law enforcement and intelligence gathering communities. This integrated system would provide timely enforcement of laws and regulations. The use of advanced technology to track the movement of cargo and the entry and exit of individuals is essential to the task of managing the movement of hundreds of millions of individuals, conveyances, and vehicles.

Agreements with our neighbors, major trading partners, and private industry will allow extensive pre-screening of low-risk traffic, thereby allowing limited assets to focus attention on high-risk traffic. Some of this work has already begun with Canada, our largest trading partner. On December 12, 2001, Governor Tom Ridge, Director of the Office of Homeland Security, and John Manley, then Canada's Minister of Foreign Affairs, signed the "Smart Border Declaration" with a 30-point action plan that will help speed and secure the flow of people and goods between the United States and Canada. The Smart Border Declaration recognizes that "our current and future prosperity and security depend on a border that operates efficiently and effectively under all circumstances." A similar effort is currently underway with Mexico.

The struggle against terrorism is a truly national struggle. Federal, State, and local government agencies, as well as the private sector must work seamlessly together. Having the right system of communication—content, process, and infrastructure—is critical to bridging the existing gaps between the Federal, State, and local governments, as well as the private sector. These new systems will greatly assist our officials at all levels to protect and defend against future terrorist attacks, and to effectively manage incidents whenever they should occur.

To help meet these needs, the Administration has established a uniform national threat advisory system, announced last week by the Office of Homeland Security, to inform Federal agencies, State and local officials, as well as the private sector, of terrorist threats and appropriate protective actions. The President's Budget for fiscal year 2003 supports this effort by funding the development and implementation of secure information systems to streamline the dissemination of critical homeland security information.

Likewise, the Department of Transportation, through the new Transportation Security Administration (TSA), will be making every effort to ensure the security of cargo, including containerized cargo, as it moves throughout America's intermodal transportation system. With its Congressionally mandated deadlines, TSA has been focusing primarily on aviation-related security issues. However, in the months

ahead, the new organization will be devoting substantial attention to maritime and surface transportation-related security.

Although much attention was rightfully focused on aviation following the September 11 attacks, the Department of Transportation took decisive steps to address the issue of security in all the surface modes of transportation as well. In addition to the U.S. Coast Guard's quick response to guard the security of American ports and waterways, Secretary Mineta established the National Infrastructure Security Committee (NISC). Through several direct action groups, the NISC was tasked with evaluating transportation infrastructure vulnerabilities, security protocols and processes and recommending changes to improve security. As part of the President's USA Freedom Corps, the Department is working with the Department of Justice on a ten-city pilot test of the Terrorist Information and Prevention System (TIPS) that will use transportation workers, letter carriers and others as part of a system for reporting suspicious terrorist activity. If the pilot tests are successful, the program will be expanded nationwide.

From the direct action group process, other groups have been formed to tackle very specific security issues. Among these is the Container Working Group—established through the NISC in December. The Container Working group is co-chaired with the U.S. Customs Service and includes representatives from the Departments of Defense, Energy, Commerce, Justice, Agriculture, Health and Human Services (FDA) and others. The group has oversight from the Office of Homeland Security.

The Container Working Group is tasked with providing recommendations to improve the secure movement of the six million marine containers that enter our nation's ports and the eleven million truck and rail containers that cross the Mexican and Canadian borders into America each year in a way that is safe and efficient. In order to address individual aspects of container security, four subgroups of the Container Working Group are studying information systems, security technologies, business practices, and international affairs. On the front lines of container security is the U.S. Customs Service, as well as other federal agencies. The Container Working Group is studying technologies and business practices that will enable Customs and others to prevent high-risk containers from entering the United States or to ensure that they are properly inspected before they pose a threat to the United States. Although the Customs Service utilizes a thoughtful risk-based selection method, preventing a container from being used as a weapon requires a more complex strategy, enhancing the non-intrusive inspection technology and information used for selection. The new Customs Container Security Initiative builds upon previous work with our international trading partners to improve container security throughout the world's global supply chain.

This work is of critical importance, especially in the maritime arena. Approximately 95 percent of our Nation's non-NAFTA international trade moves by water. During a major military deployment, 90 percent of our military materials move through our nation's seaports. Preserving those assets and protecting the safety of the men and women who use them and the communities near them has been, and continues to be, one of the Administration's top priorities. To accomplish this priority, a new partnership must be formed. A partnership between the commercial maritime industry and government must take advantage of existing commercial security systems, information systems and technological innovations.

Even with our best efforts, our current transportation system is groaning under capacity constraints and congestion in many ports is increasing. To further complicate matters, container traffic, even with the current economic slowdown, is predicted to double in the next twenty years. Improving efficiency is one of the key ways to help solve these capacity and congestion problems. Yet efficiency improvements must now be looked at through a security lens. Our transportation system will need to operate both efficiently and securely. These twin goals of efficiency and security need to be addressed simultaneously.

In summary, the vast volume of trade and traffic through our nation's ports and across its borders has put immense pressure on our ability to enforce the nation's laws while facilitating international trade, even before September 11. After September 11, our challenge has risen to a new level. Notably cargo trade, which is critical to this country's economic strength, continues to move through ports with minimal interruption. It is no surprise that sustaining mobility will come at a higher cost to all of us as we harden our borders. The reality is that we are an open society and we cherish our freedoms. Ultimately, it is incumbent upon our government and our transportation industry partners to find the balance between appropriate security measures and the unimpeded movement of cargo.

## CARGO SECURITY IN THE MARITIME SECTOR

An analysis of our transportation system in the aftermath of the events of September 11, 2001 clearly laid bare the susceptibility of container shipments as a delivery system for an enemy's weapons. Prior to September 11, DOT's primary concern was the efficient movement of these containers through the transportation system. The advent of just-in-time business processes and the use of the transportation system as a rolling inventory tied the transportation system even more integrally into the economic vitality of this country.

The Department was well equipped with existing statutory authority to develop the immediate maritime security response our Nation has required. These steps have formed the core of our near-term response to the new maritime and port security environment, and have been based on current authority and existing resources.

A number of critical steps have been taken since September 11:

The Coast Guard has refocused resources to protect high consequence targets in the marine environment, including critical bridges, port facilities and other infrastructure.

The Coast Guard has issued emergency regulations requiring 96-hour advance notices of arrival for ships arriving in U.S. ports, and we expect to make that regulation permanent by the summer of 2002.

The Coast Guard Intelligence Coordination Center, working with the Office of Naval Intelligence, has been tracking inbound high-interest vessels and providing intelligence on the people, cargoes and vessels to operational commanders and interested agencies.

The Coast Guard has deployed personnel as Sea Marshals and small boat escorts to ensure positive control of vessels containing critical cargoes and in sensitive areas.

The Maritime Administration has been meeting with members of the maritime industry to examine and address security issues and make recommendations regarding legislation and policy changes.

The Maritime Administration has heightened security at its Ready Reserve Force fleet sites and outport locations as well as activated one ship to assist in Operation Enduring Freedom.

The Maritime Administration, Credential Direct Action Group and the Transportation Security Administration GO Teams are working to examine ways that advanced technologies, including smart card, biometrics and public key infrastructure can be used throughout the maritime and related industries in order to accurately identify employees working in security-sensitive areas.

The St. Lawrence Seaway Development Corporation has been working closely with its Canadian counterpart and the Coast Guard to heighten security on the St. Lawrence River and ensure the protection of ocean access to our Great Lakes ports.

In order to address the security issues surrounding the movement of marine cargo containers through the international, intermodal transportation system, the inter-agency Container Working Group has been examining ways of improving the coordination of government and business efforts as they relate to container security; enhancing data collection; improving the physical security of containers; initiating activities on the international front; and considering all possible uses of advanced technologies to improve the profiling of containers and to increase the physical security of containers.

Working with other port entities, the Coast Guard is developing tracking mechanisms for all vessels operating in the maritime domain: within or transiting to U.S. ports and transiting our coastal waters. The heart of this maritime domain awareness program is accurate information, intelligence, surveillance, and reconnaissance of all vessels, cargo, and people extending well beyond our traditional maritime boundaries. Coast Guard forces will provide enhanced defenses for critical high-risk vessels and coastal facilities, marine and otherwise (e.g. nuclear power plants, oil refineries). Close coordination through Harbor Safety Committees, which help bring together the many local, State, and Federal agencies that maintain and protect the harbor, will ensure a well-balanced protective envelope is sustained at different threat levels.

The Coast Guard has also reorganized its security programs, which were dispersed throughout the Office of Marine Safety, Security and Environmental Protection, and consolidated them under a new port security directorate. This includes the movement of the container inspection program, which was focused on the structural integrity of containers and the proper shipment of hazardous materials, to add a security element to its safety inspections. The Container Inspection Training Assistance Team (CITAT) was deployed to New York City following the attacks and as-

sisted in inspecting numerous containers following the “just in time” training they received from the U.S. Army.

The President’s 2003 Budget increases funding for the Coast Guard’s homeland security-related missions (protecting ports and coastal areas, as well as interdiction activities) by \$282 million, to an overall level of \$2.9 billion. After September 11, the Coast Guard’s port security mission grew from approximately 1–2 percent of daily operations to between 50–60 percent during the heightened threat periods. Today the port security mission is about 15 percent. In addition, the Coast Guard has important national security missions such as illegal immigration and drug interdiction and port security.

Equally important in improving port security has been the Department’s partnering efforts with the international community. At a recent International Maritime Organization Assembly and intersessional working group meetings, the Coast Guard, as the lead agency for the U.S. delegation, introduced numerous security measures for consideration including vessel, facility and offshore platform security plans, early implementation of automatic identification system transponders for certain ships on international voyages and designation of and training for ship, company and facility security officers. The U.S. Government also introduced some preliminary container security measures for consideration with the promise to provide more detailed papers for the Maritime Safety Committee meeting in May 2002 based upon the recommendations of the interagency container working group and Customs’ Container Initiative.

Grant Program for Improvement of Port Infrastructure: The Department of Defense Appropriations Act for fiscal year 2002 appropriated \$93.3 million to the Transportation Security Administration to award competitive grants to critical national seaports to finance the cost of enhancing facility and operational security. Such grants are to be awarded based on the need for security assessments and enhancements as determined by the Under Secretary of Transportation for Security, the Administrator of the Maritime Administration, and the Commandant of the Coast Guard. The final grant approval body will be a board consisting of the Under Secretary of Transportation for Security, the Administrator of the Maritime Administration, and the Commandant of the Coast Guard, or their representatives. Determination of grant awards will be based on consideration of the most urgent needs from a homeland security perspective. It is anticipated that initial awards will commence in June 2002. Port authorities will be able to submit grant applications electronically through a Departmental website. A small amount of this money will fund “proof of concept projects,” focusing on critical seaports. Preference will also be given to ports that have already begun port security enhancement through some demonstrated action. We are moving very quickly to put this money to work.

#### CARGO SECURITY IN THE MOTOR CARRIER SECTOR

In response to terrorist threats to the transportation system, the Federal Motor Carrier Safety Administration (FMCSA) initiated a program of onsite visits to hazardous materials carriers and businesses to increase their awareness of terrorist threats, to identify potential weaknesses in carrier security programs, and to report potentially serious security issues to the appropriate authorities. Since September 26, FMCSA’s credentialed field staff have completed almost 41,000 Security Sensitivity Visits (SSVs) throughout the country, focusing on companies transporting hazardous materials in types and quantities that terrorists could use as a weapon, truck driver training schools, truck rental and leasing firms, chemical and petroleum facilities, hazardous materials shippers, and other operations that could be at risk.

In SSVs, FMCSA personnel meet directly with top company officials to review security measures and identify areas for tightening procedures. The SSV also includes a records review to identify any suspicious activities by carrier employees that could affect security. To date, 128 referrals of suspicious activities have been forwarded to the FBI for follow-up. False names or false personnel information, suspicious inquiries or inappropriate comments, unexplained absences, and citizenship irregularities are among the activities that provide a basis for referral. Company officials are being urged to conduct thorough interviews when hiring new drivers and to verify U.S. citizenship or appropriate immigration status. In reviewing their security procedures, management is asked to consider who might have access to their facilities and storage areas and the adequacy of protection. Carriers are urged to know their business partners, vendors, service providers, and their shippers.

FMCSA urges carriers to avoid transporting particularly hazardous materials near high population centers whenever possible and reinforces the need to strictly adhere to en route security procedures. Companies are informed about technical ad-

vances that can improve security and communication, such as satellite tracking, surveillance systems, and cell phones, as well as state-of-the-art locks and seals, alarms, and engine controls.

In the future, FMCSA hopes to conduct operational tests of technologies that could enhance the security of hazardous materials transportation to demonstrate the potential effectiveness of these systems. Technologies which could be tested include systems for preventing unauthorized drivers from operating a vehicle, systems for detecting a vehicle that is off-route, systems to remotely shut-off the vehicle engine, and systems that allow law enforcement, shippers, and consignees to make positive identification of the proper truck driver.

Enhanced communications systems provide another opportunity for improving security. A good communications system can help detect patterns of activities that when taken alone may not seem significant but when taken as a whole may cause concern. Security reminders and training should be regularly and widely provided to employees and should be comprehensive, covering overall company security, specific procedures, and the employee's personal role in security.

The SSV Program is only one component of the agency's program to promote the secure transportation of hazardous materials. In the future, compliance reviews of hazardous materials carriers will be expanded to include a security component. FMCSA is also developing a program for periodic visits to carriers transporting certain types of explosives, radioactive materials, and highly toxic substances. These visits will be more in-depth and include an on-site inspection of facilities and a written report with security recommendations.

The law enforcement community is an important partner in FMCSA's effort to enhance cargo security. FMCSA has developed outreach material and a training course to raise the awareness of law enforcement officers to the potential threat that commercial vehicles can pose if they are used as a weapon. With the Commercial Vehicle Safety Alliance (CVSA), the International Association of Chiefs of Police (IACP), the Maryland State Police, and the Virginia State Police, FMCSA developed a Security Awareness for Enforcement Checklist. The IACP is distributing 500,000 of these checklists to law enforcement officers across the country. FMCSA also is offering a free 8-hour training course, "Trucks & Terrorism," to law enforcement agencies.

In another outreach effort, the Teamsters, CVSA, IACP, and the Maryland State Police are working with FMCSA to inform truck drivers about measures they can take to protect themselves from potential terrorist hijackers.

Many states have either experienced instances of fraudulent activity within their Commercial Driver's License (CDL) programs or have testing and licensing practices that make them susceptible to fraud. Fraudulent licensing schemes come in many forms; language interpreters, State employees, and third party testers have all been involved. FMCSA is providing funding to States to reduce vulnerabilities in their CDL programs and is working closely with States and American Association of Motor Vehicle Administrators (AAMVA) on a special task force on identification security. We are committed to eliminating fraud in the CDL program and are examining the specific actions and resources that will be needed to accomplish this.

FMCSA is developing new regulations to implement background checks for hazardous materials drivers as specified in the USA PATRIOT legislation. FMCSA is also considering whether additional hazardous materials rulemakings would enhance the security of the motor carrier industry.

In addition to security in freight transportation, FMCSA is concerned about the vulnerability of the commercial passenger carrier industry to acts of violence. Today, except when crossing the border, passengers travel without requirements for identification, and baggage is not routinely screened. Yet motorcoaches travel in close proximity to some of the Nation's most visible and populated sites, such as sporting events and tourist attractions. FMCSA is working with charter and scheduled motorcoach operators to identify additional measures such as training, enhanced communications, passenger identification procedures, and security equipment and technologies to reduce the vulnerability of this vital transportation industry, which carries the highest volume of passengers of any mode.

While FMCSA has placed a special emphasis on increased security programs, critical safety enforcement activities have continued, including issuance of out-of-service orders, conducting compliance reviews, and complaint investigation. Enforcement targeted at carriers exhibiting poor safety performance will continue to be a major focus for FMCSA.

#### CARGO SECURITY IN THE RAIL SECTOR

The Federal Railroad Administration's (FRA) broad safety authority and expertise in railroad safety and operational issues give it a significant role to play in helping

to analyze and address security threats as they relate to rail transportation, including intermodal transportation. FRA, engaged with other modes in DOT, is investigating the availability and applicability of technological devices for rail cars and intermodal vehicles that can track the car, detect attempts to intrude into the cargo space, and provide remotely controlled locks for cargo doors (for packaged freight) and valves and hoppers (for bulk freight). Remote locks can enhance security by remaining closed until released by a radio signal from a secure location. Satellite positioning devices could further enhance security by verifying that the vehicle is at its proper destination before the locks are released.

Since September 11, FRA has been coordinating with freight, intercity passenger, and commuter railroads, railroad industry groups, railroad labor unions, and shippers of hazardous materials by railroad to review current security programs.

The freight railroad industry has established task forces to study security threats to their physical assets, to train operations, to information technology systems, to high-value and dangerous cargoes, and to national security shipments. A classified study in draft form is now under review and future actions by FRA and the industry will use these critical action team analyses to plan enhancements to the increased security already in place. Similar studies are underway within the short-line and regional railroads and by the commuter rail carriers.

Working with FRA, individual railroads have already increased inspections and surveillance at sensitive locations such as bridges and terminals.

In the coming months, FRA will study the findings in the vulnerability assessments already underway. The rail transportation of chemicals for American and foreign industries is vital to the global economy and, thus, to the larger security of the United States. While it is impossible to eliminate the risk of terrorist attack on our railroad transportation infrastructure, FRA is committed to using its assets as efficiently as possible to improve the already superb record of rail transportation safety. FRA has begun the steps to establish an on-going dialogue with America's chemical shippers to coordinate rail security efforts among shippers and carriers. Finally, FRA will examine the progress that can be made on three fronts: First, by enhancing the ability of rail carriers and the Federal government to track known risks such as shipments of highly volatile or poisonous hazardous materials. Second, by improving the ability of the railroads and of law enforcement to detect undeclared dangerous cargoes. Third, by working with the safety and security community to reinforce the training given to Federal safety and enforcement personnel so that they can detect suspicious parameters and more easily identify a security threat.

Working with the Research and Special Programs Administration, the Department has prepared legislation (introduced as S. 1669) that includes such security enhancements as allowing Federal inspectors to remove a shipment of dangerous goods from transportation if an imminent safety hazard exists.

#### HAZARDOUS MATERIALS IN TRANSPORTATION AND PIPELINE SYSTEMS

A number of actions to ensure the security of hazardous materials in transportation and pipeline systems have been undertaken by the Research and Special Programs Administration (RSPA) and plans for longer-term actions to enhance both hazardous materials transportation security, as well as pipeline security, are underway.

**Steps Taken to Ensure Hazardous Materials Transportation Safety:** RSPA issued emergency exemptions to New York City, Arlington County, and the States of New York and Virginia. The exemptions provided relief from requirements of the Hazardous Materials Regulations (HMR) to facilitate clean up and disposal of hazardous materials, including hazardous waste, at the World Trade Center and Pentagon sites.

In addition, RSPA issued an emergency exemption to the Federal Emergency Management Agency (FEMA). The FEMA exemption provided relief from the requirements of the HMR to allow the transportation of various types of hazardous materials to support recovery and relief efforts to, from, and within the disaster areas of New York City and Virginia.

RSPA worked closely with the Federal, State, and local authorities, including the Centers for Disease Control and Prevention (CDC), the U.S. Postal Service (USPS), and the Environmental Protection Agency, to respond to the anthrax emergencies in Florida, New York, New Jersey, and Washington, DC. With CDC, RSPA provided advice and assistance to USPS on appropriate procedures for transporting anthrax-contaminated mail and developed written guidance on how to transport anthrax-contaminated material for decontamination and disposal. In addition, RSPA issued several emergency exemptions to facilitate clean up and disposal of anthrax-contaminated material at sites in Florida, New York, New Jersey, and Washington,

D.C. These exemptions required development of a new packaging protocol for shipment of anthrax-contaminated objects such as mail, office equipment, carpeting, and furniture.

Since September 11, three security advisories have been issued warning that transportation security can no longer be treated as a secondary or tertiary issue and asking shippers and transporters to review and strengthen security measures, particularly for high-hazard materials. The most recent security advisory, issued on January 18, 2002, asked the hazardous materials transportation community to be especially vigilant during the Super Bowl in New Orleans and the Olympics in Salt Lake City. The advisory suggested that shippers and transporters implement heightened security measures and considers altering routes to avoid populated areas where practicable.

RSPA is developing a security template for the Risk Management Self-Evaluation Framework (RMSEF). RMSEF is a tool to assist regulators, shippers, carriers, and emergency response personnel for examining their operations, and considering how they assess and manage risk. The security template illustrates how risk management methodology can be used to identify points in the transportation process where security procedures should be enhanced within the context of an overall risk management strategy.

RSPA is also developing a Hazardous Materials Transportation Security Awareness Training Module directed at law enforcement, industry, and the hazmat community. The training module will be web-based, posted on the HMS website, and presented at multimodal seminars, and outreach efforts will be stepped up at the local level.

RSPA created a Hazardous Materials Direct Action Group (Hazmat DAG) that met with representatives of the hazardous materials industry, emergency response community, and State governments to discuss transportation security issues in the wake of the September 11 attacks and continuing terrorist threats. Participants addressed recently implemented security measures; identified gaps in current security arrangements; discussed specific areas of concern and worst-case scenarios; recommended government actions to augment industry security programs; and suggested policy, legislative, and regulatory changes that could enhance the overall security of hazardous materials during transportation.

RSPA also created an internal DOT Intermodal Hazardous Materials Transportation Security Task Force, which assessed attack or sabotage vulnerabilities, evaluated existing security measures, and identified potential ways to reduce vulnerabilities. The reports of the Hazmat DAG and the Intermodal Task Force provide a sound basis for moving forward to enhance hazardous materials transportation security.

On February 14, RSPA published a notice in the Federal Register advising hazardous materials shippers and carriers of voluntary measures to enhance the security of hazardous materials shipments during transportation. The notice is based largely on what we learned through the Hazmat DAG and the Security Task Force and addresses personnel, facility, and en route security issues, and includes contact points for obtaining additional, more detailed information.

The hazardous materials industry already has voluntarily adopted a number of measures to enhance the security of hazardous materials shipments and is committed to do whatever it takes to assure that hazardous materials can continue to be transported safely and securely. Shippers and carriers have implemented a wide spectrum of actions to enhance security awareness and improve security for both fixed facilities and in-transit shipments. Individual companies and industry associations are conducting threat assessments, identifying targets of opportunity and areas of vulnerability, and taking concrete actions to reduce threat possibilities and increase security. Many are working closely with Federal, State, and local law enforcement and security personnel, including the U.S. Coast Guard, the FBI, the DOT Office of Security and Intelligence, and the U.S. Customs Service. Certain shippers and carriers are upgrading security in and around plant sites, conducting more stringent background checks on plant employees and motor carrier drivers, and adjusting routes to avoid populated areas where feasible. Increasingly, some carriers will only handle hazardous materials shipments from approved shippers. Many are improving the ways they identify and track hazardous materials shipments.

**Steps Taken to Ensure Pipeline Security:** In addition to work on hazardous materials transportation, RSPA is addressing security issues for pipelines through its Office of Pipeline Safety. The security of the pipeline system is of strategic importance due to the large volumes of materials transported by pipeline and their critical importance to the National economy as well as defense. The events of September 11 provided us a unique understanding of the state of security preparedness within the

pipeline industry—and RSPA discovered there is work to be done. To ensure that pipelines are secure to the maximum extent possible, RSPA is now taking a number of measures. Additionally, within the pipeline safety program, RSPA is cooperating with the new Transportation Security Administration, to ensure RSPA provides a unified approach to meeting transportation security challenges.

On September 11, RSPA responded immediately to security concerns for the Nation's pipeline systems by making over 1,000 telephone calls jointly with its State partners to pipeline operators, to assess the security at pipeline facilities and to monitor events. In recent months, RSPA streamlined this communication process, in coordination with the Department of Energy (DOE) and the Federal Bureau of Investigation, and incorporated it into its daily operations for distribution of security information and threat warnings.

RSPA is securing its own information systems. One action on securing information concerns the National Pipeline Mapping System, accessed by a website. To reduce the opportunity for misuse, RSPA limited accessibility to the website by installing a password protection system. RSPA is also processing security clearances for key federal, state and industry security personnel, and conducting conference calls every two to three weeks with all the pipeline safety agencies to review recent developments, toward the goal of providing a seamless Federal and State oversight program of pipeline security.

Reauthorization: However, all of RSPA's efforts on security for both hazardous materials transportation and pipelines may be undermined if these two programs are not reauthorized. Toward this goal, the Administration submitted a proposal for reauthorization of the Hazardous Materials Transportation Safety program, which was introduced by Senator Hollings and Senator McCain on November 8, 2001. The proposal includes a number of provisions to clarify and strengthen RSPA's authority to address hazardous materials security issues.

Although current law does not preclude the Department from preventing intentional misuse or release of hazardous materials in transportation, RSPA's program is primarily focused on preventing unintentional releases. Therefore RSPA is seeking clarification and strengthening of the Department's authority to address hazardous materials transportation security and supports Congressional efforts in this area. The result will be a comprehensive hazardous materials safety program that addresses a broad spectrum of possible threats to public safety.

#### CONCLUSION

The Department of Transportation is glad to have had the opportunity today to discuss the steps we are taking as we build a new operational baseline for cargo security in America. Like any network, the cargo transportation system is in a constant state of growth and change. The system we create must therefore be one that is capable of evolving over time, and where the expectation of that evolution is clearly established. Finally, the system must fully recognize the intermodal nature of transportation. Cargo that is unloaded from a ship today in a seaport will move quickly to other modes of transportation. There is no better example than the cargo container—a phenomenon that has been successful precisely because it is fundamentally intermodal—a cargo container arriving at a U.S. seaport today can be virtually anywhere in the heartland of America via truck and/or rail tomorrow. Accordingly, security measures must be fully integrated throughout all of the modes of transportation.

I know that the witnesses will be able to expand on our efforts and that all of us at DOT are looking forward to working with the leadership and members of the House and the Senate in successfully building the new standard the nation requires.

#### HAZARDOUS MATERIALS DIRECT ACTION GROUP

Senator MURRAY. Thank you very much, Mr. Magaw.

Mr. Magaw, your testimony states that Ms. Engleman's agency, the Research and Special Programs Administration, created a hazardous material direct action group. According to the testimony you gave us, that group identified gaps in current security arrangements, discussed specific areas of concern and worst case scenarios, recommended government actions to augment industry security programs, and suggested policy, legislative, and regulatory changes. I understand these recommendations include some very far reaching actions. Ms. Engleman, maybe you could tell us pre-

cisely when you submitted those recommendations to the Secretary's office.

Ms. ENGLEMAN. Thank you, Madam Chairman. This intermodal working group is a very active group. We set it up within about 10 days or less following the September 11 event. We gave them a stringent 30-day requirement to come back with a set of recommendations. The recommendations did indeed address all the areas that you said. The group consisted of a total DOT team. We had Coast Guard, we had highways, we had motor carriers, we had rail, we had ourselves, and then we also reached out internally to general counsel and other areas within the Department of Transportation. We submitted that to the National Infrastructure Security Committee and added that, in addition to the other 10 or 15 direct action groups that were working at that very time. We are implementing many of those recommendations. We are still working on that entire set of goals.

Senator MURRAY. When did you actually send the recommendations to the Secretary's office?

Ms. ENGLEMAN. I do not have the specific date, ma'am. I believe it—I know it was in November, but I don't have the specific day that we submitted it to the Secretary.

Senator MURRAY. Well, Mr. Magaw, when can we actually expect these recommendations to be acted on?

Mr. MAGAW. Well, I will today make an inquiry with the Secretary's office to see what the status of those are and will get back to you with that answer.

[The information follows:]

Two notices were published in the Federal Register in response to recommendations from the Hazardous Materials Direct Action Group. On February 14, 2002, the Research and Special Programs released "Advisory Notice: Enhancing the Security of Hazardous Materials in Transportation" and on May 2, 2002, released "Hazardous Materials: Security Requirements for Offerors and Transporters of Hazardous Materials" for comment. The Department will continue to act on recommendations from these reports through additional regulatory actions and non-regulatory actions such as initiating hazardous materials security focused outreach and training.

#### HAZARDOUS MATERIALS RULEMAKING

Senator MURRAY. We have not seen any regulations at this point.

Ms. ENGLEMAN. Madam Chairman, we have a rulemaking on one of those significant regulations, that is working to continually review and consolidate these issues. We also have had a variety of other actions that we've done on security alerts, inspection teams, working with industry, and a variety of direct action groups, as previously mentioned. We also have issued announcements. We do have what we call a risk management self-evaluation framework which is up and on the Web. But I'd like to share with you that that is not a mere guideline. This document is pretty comprehensive. I would submit that it is not just an evaluation tool, but actually a consulting tool.

Senator MURRAY. It is my understanding that everything so far has been voluntary or advisory. There have been no regulations issued at this point.

Ms. ENGLEMAN. That's correct, ma'am. As you know, we have to go through the administrative rulemaking procedures. That does

take time. After you go through the notice of proposed rulemaking, there's at least a 60-day period, and then obviously rulemaking can take up to a year. However, we don't want to wait for the administrative bureaucracy to delay action, and so we've gone to industry, the actual people involved, to help them to start the process now. And we also have our own actions to work with.

Senator MURRAY. What is your target date for when we are going to see regulations?

Ms. ENGLEMAN. Ma'am, it's not a single target date. This is literally a daily activity, a weekly activity. We don't have an end goal as in "we will finish everything within  $x$  days," because this will never stop. This will be an ongoing activity to continually review, continually update, continually outreach, continually train, and continually attempt to secure the needs of the Nation.

#### TRANSPORTATION OF HAZARDOUS MATERIALS

Senator MURRAY. We know that every day there are over 800,000 shipments of hazardous materials. And we all know what the tragic consequences would be if a tank car carrying one of these lethal, hazardous materials were to spill or explode in a densely populated area. Mr. Clapp, Mr. Rutter, if you could tell us how realistic it is to think we could actually reroute some of these dangerous hazardous materials so as to avoid major metropolitan areas. Mr. Clapp.

Mr. CLAPP. Thank you, Madam Chairperson. We of course have existing routing regulations in place that, as you point out in your statement, were designed with safety in mind, as opposed to security. However, for this particular issue I think the two go hand in hand. You would want to route hazmat by the safest route, whether it's a security issue or an accidental release that we're dealing with.

We know that there has been a considerable increase in activity by State and local jurisdictions with respect to establishing hazardous materials routing. Those are done according to existing Federal standards that are a part of our regulations.

Senator MURRAY. Are you considering mandating the most hazardous materials be rerouted to avoid densely populated areas?

Mr. CLAPP. We already have regulations in place which govern the choice of routes for hazard material shipments. First of all, there is a general regulation which applies to the carriers' selection of routes, because some routes, of course, are not designated as such. State and local government and Indian tribes have the right to establish routes in their areas of jurisdiction according to these standards.

Senator MURRAY. So basically you are relying on the local rules and regulations and are not looking at anything from the Federal level?

Mr. CLAPP. No. We already have regulations in the Federal Register that require the driver to select a route which is most appropriate from the standpoint of safety for the hazardous materials transportation that he is performing at that time. The routing requirements reflect the consequences of an accidental release.

Senator MURRAY. Do you think the current security threats that we now have should make us think about having some more re-

strictions or stronger restrictions at this time than what we currently have?

Mr. CLAPP. The answer is yes. We are developing a rulemaking with respect to certain particular types of hazardous materials such as explosives. It frankly comes out of the task force that Administrator Engleman was discussing. With respect to the extension of additional security regulations that include routing for certain high-consequence hazardous commodities. We are in the process of developing an Advance Notice of Proposed Rulemaking to go out on that now.

Senator MURRAY. Mr. Rutter, for your agency?

Mr. RUTTER. Part of how we're approaching how to deal with the transportation of those hazardous materials depends on two issues. One is, in considering the possibilities of routing around metropolitan areas, that we have to be concerned about the infrastructure in place. Many times major class one routes between cities that are maintained to the highest standards are those that are the most heavily trafficked and by their nature go to and through major cities. If we were to take actions to require those goods to move around those cities, we may be using rail lines that are maintained to a lower level of capacity or safety.

The other thing to consider is that routing decisions in many cases are dependent on who's generating the chemicals and who's using the chemicals. In many cases, those generators and users are located in metropolitan areas.

One of the things that you had mentioned in your statement having to do with the use and manufacture of chlorine, for instance, is a matter of making sure that the people who use those chemicals can have access to it. Most water treatment facilities are in major metropolitan areas. And if we take actions to restrict the movement of those chemicals, we may endanger the intended uses of them, such as for water treatment facilities. So we're trying to balance the needs of those who need to use those chemicals and to make sure that the transportation of them is as safe as possible.

#### HAZARDOUS MATERIALS SHIPMENTS

Senator MURRAY. Let me ask one more question. Then I am going to run and vote and come right back.

There has been a lot of speculation as to whether some of the more deadly hazardous materials could be transported in a form that is either less concentrated or perhaps less lethal. Ms. Engleman, let me ask you. Have you explored this idea with the chemical and hazmat industries to see if there is a way to transport some of these shipments in a less deadly form?

Ms. ENGLEMAN. Yes, ma'am. We're looking at all aspects of the shipment: container designs, container equipment, the actual product itself. All of this is on the table to discuss.

Senator MURRAY. Have you made any formal recommendations to the Secretary in terms of this?

Ms. ENGLEMAN. Not to my knowledge, ma'am.

Senator MURRAY. There have been no recommendations submitted on hazardous material, any recommendations whatsoever? I mean, we are 6 months, 7 months away from September 11, and

we have not had any recommendations to the Secretary on any of this?

Ms. ENGLEMAN. No, ma'am. Perhaps I misunderstood your question. I thought you were relating directly to specifics as far as individual products.

Senator MURRAY. We should be looking at some ways to have safer transport of some of these hazardous chemicals. I know you have been looking at some things. But you have not made any recommendations specifically, even though we are 7 months after September 11?

Ms. ENGLEMAN. Ma'am, we've made a variety of recommendations covering the entire gamut of hazmat material, everything from the actual product to its containment, shipping process, delivery, labeling, and packaging, the entire product. So when you ask about the recommendations, yes, ma'am, we've put together an entire package, including regulation review, interagency support and organization, and coordination. Please note, much of what we do to provide safe shipment of hazardous materials, and have done fairly successfully, also addresses many of the security concerns. That which is safe often is secure.

So sometimes we don't have to have a security overlay, if you will, to still ensure the safe shipment. We can address it through our safety regulations, which are already in place. This is part of our review to determine if we needed to add additional security overlay, because as you correctly stated in your opening comments, prior to 9/11, we focused on safety and the accident versus security and the incident. So we have gone very precisely through to determine if any additional work needs to be done to provide security that would make a difference. In the majority of much of what we do, though, safety is enough. If they are safe, they are secure.

Senator MURRAY. I have a number of additional questions in this area. Senator Shelby is going to be back in just a minute. As soon as he gets back, he will start his questioning, but I am going to recess for just a few minutes while we go and vote.

#### IDENTIFYING HAZARDOUS MATERIALS

Senator MURRAY. The hearing is back in order.

Let me just say while I am directing these questions to individuals, I want to emphasize that other witnesses really should chime in when appropriate. All these issues have impacts in all the modes that we have represented here this morning. I really do want you to feel free to comment and add comments as you feel are necessary.

I will continue with questions until Senator Shelby gets back and then allow him to move forward.

#### BALANCE SAFETY AND SECURITY

Ms. Engleman, let me go back to you again. Every day there are 800,000 shipments of hazardous materials moving on our highways, on our railways, and our seaways, all of which are required to be marked with placards to identify the type of hazard that is inherent in the cargo, such as poisonous gas or an explosive. In addition to the placards, some of the most dangerous shipments require additional markings. For example, highway shipments of

chlorine require that tank trucks are marked in white four-inch block letters, the word “chlorine” on the side of the truck. The fact of these markings are to warn people to stay away and to allow emergency response personnel to properly respond to spills and leaks. The problem here lies in the fact that at the same time we are achieving our safety goals, we are also drawing potentially unwelcome attention to shipments that could potentially be used as a weapon of mass destruction.

Ms. Engleman, what are you doing to balance the safety and security issues that seem to be at odds here?

Ms. ENGLEMAN. Thank you, Madam Chairman. You are absolutely correct that it is a balance of issues that we’re trying to address. We’re very sensitive to the concerns that placards may indeed help identify hazmat material shipments as a target, if you will, of opportunity for terrorists or criminals. But we have to weigh the additional security risk against the demonstrated safety benefits of placarding, for the emergency responders, for anyone on the accident site, for anyone who would be involved in trying to support recovery efforts. And so to protect firefighters, policemen, emergency personnel, rapid identification of the hazmat material is absolutely critical.

We also believe that a sophisticated terrorist will not rely on our placarding system to identify the vehicles or the container or the shipment, in order to do harm, if you will, with the product. So, as such, removing the placards and removing hazardous communication markings could truly place our firefighters and policemen, ambulance technicians, and other emergency responders at risk and increase their vulnerability at an accident site.

Senator MURRAY. Is there any technology available to switch to a more nondescript method of identifying hazardous cargos that also meets the needs of the emergency response community?

Ms. ENGLEMAN. We are reviewing a variety of possible technologies that could assist us in this, everything from advanced sensor reading or tracking devices, and we are reviewing the possibility of utilizing this to support our efforts. So this is something that’s on the table. But the main consideration that we have right now is if there is an accident, because we hope sincerely that accidents will remain our concern, rather than incidents.

The majority of the time that we will need to be on site will be a safety issue, an accident, and we don’t want to deter from the ability of first responders to be on site or to cost them time.

#### PAYING FOR TECHNOLOGY

Senator MURRAY. Who should pay for that new technology? Should it be us, the Government, or the industry?

Ms. ENGLEMAN. Usually, when you invest in technology—I actually come from an R&D background—I think that it’s something that you have to consider the cost versus the economic benefit to the industry. We need to look at what’s going to be the best way to achieve that through a cost/benefit analysis.

Senator MURRAY. Beyond that, though, is this something we should be thinking about in terms of our budgeting? Should the Government be responsible for paying that, or are we going to require industry to do it?

Ms. ENGLEMAN. I can't answer definitively at this time. However, if you look at past practices on these issues, no matter where they are, whether they're safety, security, or other issues, we have a whole breadth of responses. Sometimes the Government pays 100 percent; sometimes it's industry; sometimes it's a 50-50 split. It's based on the cost/benefit and what's the best way to achieve the goal and not be onerous to either party.

Senator MURRAY. Mr. Clapp or Mr. Rutter, do either one of you want to respond to this issue? Mr. Clapp.

Mr. CLAPP. We have discussed this internally, and I believe Administrator Engleman's views are entirely consistent with our own.

Mr. MAGAW. Madam Chairman, can I just make a comment here?

Senator MURRAY. Yes.

#### DRIVER AWARENESS AND SECURITY

Mr. MAGAW. You know, the other thing that we want to address very quickly also is the driver of these vehicles.

Training them in terms of what to look for, most of the time. When you will use something like this to do harm, you will case it. You will find out where they are parking it. You will find out when they are leaving terminals, and when they are coming back to terminals. Drivers who are on the highway can look for things that a tailing vehicle or an observation vehicle would give away, that there is some kind of planning going on or in fact an act about to occur.

So more driver awareness, more driver security is needed. How secure are we in terms of that particular driver? Could a sleeper cell or a terrorist group come on board and actually be drivers of these vehicles? So we are going to look at that area very closely also.

Senator MURRAY. Will we be seeing some recommendations on this?

Mr. MAGAW. Well, it is one of the items that we have identified and we are going to look at. I can't imagine that we wouldn't have some very good suggestions coming out of this.

Senator MURRAY. Mr. Rutter, do you want to comment?

Mr. RUTTER. Well, Senator, one of the, I guess, ongoing success stories that had of predated 9/11 was the efforts of both kinds of modes of transportation, in the industry itself, working with local emergency planning committees and with first responders. One of the programs that is in use now is called, "Operation Respond" and provides those with the need to know—the first responders information about the consist—down to "This is what that car is," "This is what it's carrying," "Here's how it's manufactured," "Here's the chemical information about that commodity."

There are in existence some technological approaches that provide first responders some of that information. But the key is how do you help those first responders visibly know what's on those trains—what's on a train or what's in a truck? And so the technology has to be based on the ability of a first responder to gain information about that particular shipment.

There may be possibilities of doing away with the placard, but, you know, who wants to go marching up to the car to wave some

sort of AEI indicator? We're trying to find ways of building on what's already in place, that relationship between the shippers, the carriers, and the first responders, to find additional ways of enhancing the capabilities of those systems.

#### EXEMPTION OF CERTAIN HAZARDOUS MATERIALS

Senator MURRAY. Ms. Engleman, let me go back to you. I understand that there are regulations that have been in place since 1990 that exempt smaller quantities of certain hazardous materials from having to be registered or placarded. In addition, I am told your agency exempts the intrastate transfer of ammonium nitrate in quantities far larger than Timothy McVeigh used to blow up the Murrah Building in Oklahoma City. Given the new level of concern regarding terrorist attacks, should your agency not review whether these hazardous materials should be exempted from your regulations or whether the threshold should be lowered even further?

Ms. ENGLEMAN. Senator, part of the challenge, of course, will be record keeping for any type of registration and tracking of such. We don't want to impose any severe burdens especially on small businesses. As you are aware, there are over 40,000 small businesses that act as our shippers, if not more.

Senator MURRAY. So we have not moved because we are worried about regulating industry?

Ms. ENGLEMAN. We should always be concerned about over-regulating industry, ma'am, to ensure that we have economic prosperity balanced with——

Senator MURRAY. Should the concern be regulation or should the concern be security, in light of what we now know about terrorist activity?

Ms. ENGLEMAN. I believe we have to balance both regulatory and security concerns.

Senator MURRAY. Which way do you tip?

Ms. ENGLEMAN. I believe we have to balance both regulation and security concerns and the need for economic prosperity.

Senator MURRAY. Mr. Magaw, do you want to comment?

Mr. MAGAW. Well, I think that we have to be careful of the bottom line of the business person in this country. I would lean towards the security side, but would ask also that Congress help fund that side.

Senator MURRAY. Mr. Clapp or Ms. Engleman, shouldn't we be concerned about the fact that your agency exempts potential explosives such as ammonium nitrate from many regulations? Mr. Clapp.

Mr. CLAPP. Well, we do not exempt potential explosives. I think your statement was to the effect that some States permit the intrastate transportation of ammonium nitrate——

Senator MURRAY. Intra, right.

Mr. CLAPP [continuing]. In larger quantities than they are allowed under the Federal regulations. Prior to October 11, 1998 we did not have preemption authority over intrastate regulations, although our grant program, in fact, specifically requires the States' regulations to be in concert with our own.

I think it is definitely worthy of consideration. If there are instances where some States do permit larger quantities of ammo-

mium nitrate to be shipped intrastate than are permitted under Federal regulation, then yes, we should look at that.

#### HAZARD MATERIALS ACTION GROUP

Senator MURRAY. Ms. Engleman, how did your hazmat direct action group address the issues in your recommendations to the Secretary?

Ms. ENGLEMAN. First of all, we put together an intermodal hazmat group, which was the 30-day group which I mentioned earlier. That consisted of all modes within the Department of Transportation, as well as legal staff. We provided the formal documentation, which I do need to clarify, and state that we are implementing many of these.

I don't want to mislead you, to say that we're waiting just for regulations. Much of what we're doing was internal coordination, communication, and security advisories. We actually have put out a product every month since the event, whether they be specific security notices, advisories, or interviews, or working with the major associations, as well as individual companies, and other agencies. We provided the formal notebook and plan to the National Infrastructure Security Committee, which the Department established under Secretary Mineta's leadership. We additionally added what we call the direct action groups.

The direct action groups broke down all the major issues into topic area, as well as specific issues. Each of those direct action groups also added to our body of knowledge. We provided all of these information materials and recommendations to the modes and to the Secretary; interdepartmentally we are implementing much of what we had discussed, because much of that we can do without requiring regulations.

Senator MURRAY. Senator Shelby.

#### NATIONAL RISK ASSESSMENT

Senator SHELBY. Thank you, Madam Chairman.

In my opening statement, I stated my belief that it is essential for the Department to develop a national risk assessment of the entire transportation system. This would form the basis of a plan to make the system more secure and should provide a method to address the greatest risks immediately.

Mr. Magaw, has TSA begun this process? Also I would be interested in hearing how this effort is coordinated with the Office of the Secretary and various modal administrations, if you care to comment.

Mr. MAGAW. The Office of Homeland Security, which we have interfaced very closely with and will continue, is doing assessments right now. What we want to do is fit into it as part of the national plan. We believe that you have to have a risk assessment. It has to be a national risk assessment in order to coordinate all the kind of things that you are concerned about.

What we are doing now is—at TSA—is we are hiring personnel. I have told the administrators, "We need to hire personnel who have law enforcement background, but people who also have trucking background or railroad background." So I am working with them to hire the proper staff, after which then we can move for-

ward and coordinate and work with other entities to make sure that we have a national plan and that we develop our priorities and our budgets and our strategic plan based on that.

#### TRANSPORTATION SECURITY

Senator SHELBY. Mr. Magaw. And I'll direct this question to all of you on the panel. Aside from aviation, what do you perceive to be the most immediate and serious transportation security issue? And what immediate actions or steps are you pursuing or should the Department be pursuing to mitigate the risk while a more comprehensive risk assessment is being undertaken by the TSA? You have immediate problems; you have got long range problems. Mr. Magaw, you want to lead that off?

Mr. MAGAW. Yes, sir. When any terrorist group plans to attack, it is an area that is or an area that will make the most impact—and we could see that clearly on September 11. My concern is that as we are paying more attention to aviation. Funds are being appropriated for security surveys and protections. The issue that you are sitting here about this morning, cargo and transportation of goods, is my immediate concern—in terms of where loopholes might be. The cargo area and the baggage area are places that they would try to find weaknesses. In fact, we find that there are elements of the terrorist groups that are canvassing airports and transportation systems.

The other area that concerns me is rail. If you look at Union Station here in D.C., without me being overly specific about it, you will be able to see why my concern is here also.

Senator SHELBY. What about the other panelists? Do you have any other comments on it, Mr. Rutter?

Mr. RUTTER. Well, within a week after September 11, the most immediate concern I had was making sure that we did conduct that kind of risk assessment. Unlike other modes, the railroad infrastructure is privately owned instead of publicly funded. They were in a position to know more about their systems. They had the ability to apply some very significant resources toward doing that level of assessment. And we directed them and have been cooperating with them as they have done that. That product at the industry level has been completed as of December, and the FRA has engaged a consultant to test the results of that vulnerability assessment and mitigation measures that are necessary, to make sure that not only the carriers' economic interests are being balanced, but that the public interest is being protected.

As we do that, we're also conducting outreach to shippers, chemical manufacturers, and labor, at the same time.

Immediate steps we also took before we waited for those projects to begin are—I guess I'd point out two. The carriers themselves have ratcheted back on the transparency of information about their operations. As those of you who are familiar with STB efforts on shipper concerns, one of the things shippers have been asking for is, "Where's my stuff? I want to be able to know where my goods are." And so railroads have, over the past couple of years, done very well at creating Web-based information systems on, "Here's where your stuff is exactly. It's in this town right here."

The problem was, up until September 11, those were fairly open to just about anybody. And what the carriers have done, working with those shippers, is to put on more control of who has access to that kind of information. And it's not as widely distributed as it was.

The other thing that's been done is to take advantage of the employees that are out there on the railroad system itself. Generally over 200,000 people are in a position to see what's happening, and to know who's supposed to be on their properties and who's not. And the carriers working with those labor groups have done a very good job of helping to train those employees to know what to look for, know who to report that to, and to be able to pass that information to railroad police forces, who are given interstate law enforcement capabilities. They are licensed and commissioned officers and have the ability to do something with that information. So we've controlled the amount of transparency to those who would use that information against us. And we've taken advantage of leveraging the abilities and the capabilities of the employees out there to keep their eyes and ears open.

#### TRANSPORTATION VULNERABILITIES

Mr. McMAHON. Mr. Senator, as the Under Secretary indicated and some of the administrators mentioned, a week following the September attacks Secretary Mineta established the National Infrastructure Security Committee to deal specifically with the security issues in the surface transportation field. Administrator Engleman and others have mentioned that. And that included maritime, hazmat, pipelines, surface transportation, which is highway and motor carriers, rail, and transit. And that included people from industry, hundreds of people, over hundreds of hours of meetings throughout the fall, and many recommendations. But from that, one of the clear problems or challenges was containers—sea containers, trucks, and rail containers coming across borders.

So in December, the Department established an Interagency Container Working Group, which is co-chaired and includes participants from industry and from other Federal agencies, including not only Transportation and Treasury, but Defense, Agriculture, Justice, Commerce, Health and Human Services and again, many people from the private sector.

The four subgroups in our container working group have included information technology, security technologies, business practices, and international affairs. And we submitted an initial report to the Office of Homeland Security on February 1. So the Department is taking the issue of container security, which we hear quite a bit about in the press, extremely seriously.

Senator SHELBY. Mr. Clapp, do you have any comments on this?

Mr. CLAPP. Yes, Senator. Your question had to do with vulnerabilities.

Senator SHELBY. That is right.

Mr. CLAPP. And it seems to me that—

Senator SHELBY. What are you doing immediately and then long term?

Mr. CLAPP. Well, unlike my friend Allan at the railroads, we have somewhat the opposite circumstance—

Senator SHELBY. You do.

Mr. CLAPP [continuing]. In motor carriers. We have hundreds of thousands of motor carriers in this country. We are a free and open society and an entrepreneurial-based society. As both of you recognized in your statements, the efficiency, speed, and reliability of transportation have been uppermost in our minds and indeed in our performance of our transportation systems. So one has to regard that as a vulnerability.

The way we have tried to approach that in my particular agency is to go out and have face-to-face meetings with over 40,000 carriers of hazardous materials that we would identify as being of relatively high consequence. And we have sat down with the officials of those carriers. We have reviewed their security programs, or the lack thereof, within their programs. We have reviewed a series of recommendations suited to their particular kind of circumstance, for a security planning, implementation, training and vigilance. We have also reviewed the driver rosters of those carriers.

We are just about concluded with the first round. As of March 31, we have about 400 or so to go and we have made 128 referrals to the FBI of potentially suspicious people, activities, applicants or other things of that nature. We have already seen the benefit of having done these visits, in that we have seen evidence of where the carriers have acted upon this information. They have reported when they saw suspicious activities, as Mr. Magaw referred to earlier. If somebody seems to be following the truck or is taking an unusual interest in it; it seems to us that was the most rational approach to this very open system that we have. We have to help the carriers adjust to the new normalcy; things will never be like they were, and vigilance is the price of freedom.

Senator SHELBY. Admiral.

#### MARITIME VULNERABILITY

Admiral PLUTA. Thank you, Senator Shelby, Madam Chairman. As you know, we consider the maritime mode of transportation very valuable to our country, as over 90 percent of the imports and exports into our country come through the maritime mode. It's also most vulnerable.

As we went through the Seaport Security Study that was conducted several years back, in addition to our response and our prevention activities that we undertook in the Coast Guard after 9/11, we set aside five basic goals for maritime security. In a very methodical way, and with a lot of outreach and consultation, we figured that the best investment would be made in awareness. And so Maritime Domain Awareness is very important to us, knowing what's coming our way, not only cargo, but people, ships, and also the ports from which they came.

Our second goal was to control and pay attention to the movement of high interest vessels, which gets into hazardous material, cruise ships, and other environments; they could be used as weapons or as targets.

Our third goal is increasing Coast Guard presence, both as a deterrent to somebody who wants to do something untoward and also to provide better response, as in our new Maritime Safety and Security Teams that will be coming out this summer.

Our fourth goal is critical infrastructure protection of our country. There are thousands of pieces of critical infrastructure that we need to protect that are either at the water's edge or on the water. And finally domestic and international outreach, because the solution to a U.S. attack has to be a global solution, not just a domestic solution.

Since 9/11, we undertook a very rapid rulemaking to require a 96-hour advance notice of arrival if someone is sending a ship to our country. Formerly, it was limited to some ships and was a 24-hour advance notice of arrival. We moved that out to give us more time to process the ships, the names of the crew members, the names of the passengers, and the cargo and such. We also established an 800 number at our National Response Center for people to call in suspicious acts and that's been used quite frequently by people who see things that don't look right on the waterways of our country and in our ports.

We also have been working with a commercial carrier to develop a means of ship alerting, a silent alarm similar to what aircraft pilots might have to squawk a code if they're being hijacked. We have a device that one of the companies worked with us on to send a silent alarm on a ship back to our national response center to alert them that something is happening on board.

In addition, our captains of the ports have broad statutory authorities and responsibilities and, not waiting for regulations, have used the vehicles of the captain of the port orders, security zones, and safety zones, to implement additional security requirements, and have established port security committees in the ports of our country so that all the stakeholders could get together and figure out how to improve security without being told what to do.

At the same time, we're using a vehicle that we have, called a navigation and vessel inspection circular, to go out with interim guidelines on things such as port facility security, vessel security, and such, so that everybody who is desperately in need of an answer to "what do I do?" will have some guidance from us on what to do on a temporary basis. We'll follow that up with a notice of proposed rulemaking later this year, which would go to final rule with the timing of the Administrative Procedures Act in—next year in 2003.

On the international front, because this won't just take a domestic solution, Admiral Loy and I went to IMO and made a strong presentation to get their attention focused on maritime security last November at the assembly meeting, and we got overwhelming support in an assembly resolution to accelerate IMO's activities. I headed the U.S. delegation to the very well attended inter-sessional work group on maritime security, in February, where we started the process of coming up with international standards for vessel security plans, facilities security plans, port vulnerability assessments and all the 14 different maritime security concepts that we imbedded in our U.S. paper.

We'll follow up with a meeting in May at the Maritime Security Council of IMO to conclude our work of the Maritime Security Work Group, and a diplomatic conference is set for December to put those requirements into effect on an international basis, all of which, in my opinion, compared to other IMO work I've done, is

light speed time for IMO. They've been very responsive, and the countries have been very responsive to our needs.

So that's, in effect, in a nutshell, Senator, what we've done. And I don't care to go any further unless you care to pursue any of those.

Senator SHELBY. Ms. Engleman, do you have any comments?

Ms. ENGLEMAN. Yes. I'll try to keep mine brief, sir.

Senator SHELBY. Okay.

#### PIPELINE VULNERABILITY

Ms. ENGLEMAN. In addition to all the internal work that we did, I would be remiss if I did not additionally share with you, that we've gone through worst case scenarios, best case scenarios, and vulnerability assessments for both hazardous material as well as our pipelines. I know Senator Murray is specifically interested in that.

On the day of the event, we made over 1,000 individual calls to pipeline owner/operators, personal calls, to ensure that they understood the security necessities that we had to immediately address. For pipelines, we have done vulnerability assessments, working closely with industry on a one-on-one basis literally with the individual operator, not just with the associations or the like. We have biweekly telephone conversations, meetings coordinating security needs and addressing them. Each of the major owner/operators have put together individual security plans and have brought them to our attention. We are reviewing them and working with them to improve them.

On the hazardous materials side, we've had workshops identifying best practices. We've printed brochures, produced videos, and put out CDs. We've had over half a dozen multimodal seminars throughout the Nation, with over 300 shippers in attendance at each. We will continue to have this outreach.

In January, we put together a whole plan of action. And yes, it is voluntary. But if you look at the details of the security plans that we have put together, we have provided how-to books, if you will, that are either low cost or free—they're on our Web site—to all hazardous materials shippers. That was in January. In February, in the Federal Register, again we have specifically put in a security plan, personnel security, facilities security, and en-route security.

If you look at the very specific items, you will see that we are addressing security in a total fashion.

So in addition to the advisories, and addition to the internal review, we are putting a product into the system at the one-on-one level, to ensure that people know how to do what they need to do to add security to their already in-place safety practices.

Senator SHELBY. Thank you.

#### SHIPPER INFORMATION

Mr. MAGAW. There has been a lot of concern also, Senator, that only 2 to 4 percent of the containers are checked at ports. To try to check a much larger number than that would require a huge number of people. What everyone here, both nationally and internationally, has been working on is to try to have better quality in-

formation about the shipper. If you have better quality information about the shipper and the contents that are being shipped, some of the things apply that each of them have mentioned. Then your 2 to 4 percent really is not a bad figure, because you would only be examining those which caused you to have suspicion, based on the information that, for instance, Admiral Pluta gave. They will know very quickly about that international cargo by the various means that they have, very high quality information. Therefore, Customs probably only has to look at a very small percentage, those that will jump out to them as being risky.

#### 300-FOOT PERIMETER RULE AT AIRPORTS

Senator SHELBY. The 300-foot perimeter rule—the airport security bill provided for a process whereby airports could gain relief from rules prohibiting parking within 300 feet of airport terminals after consulting with local law enforcement and after adequate safeguards had been put in place. This issue was raised in an earlier hearing, and Secretary Jackson's response would lead us to believe that the Department had a fairly standard process for reviewing airport applications for relief.

It has been brought to our attention since then that airports across the country are still waiting for the TSA to comprehensively review this issue and consider individual applications for relief.

Mr. Magaw, is Transportation Security Administration still working on a case-by-case basis with airports that have been denied relief to this point? And can you give us some sense of when you will have developed an economically viable 300-foot rule approach for the Nation's airports?

Mr. MAGAW. What we are doing is looking at each airport, because each of them are different, Senator. We have most of those resolved now. I think there are only five or six—

Senator SHELBY. Okay.

Mr. MAGAW [continuing]. Out there that haven't been relieved because 300 feet for some of them is in somebody else's yard or a field. So that is important to us, and we are addressing it, sir.

#### EXPLOSIVES TRACE DETECTION SYSTEM

Senator SHELBY. Trace detection equipment is very important, is it not? I note that one airport is using trace detection equipment as their primary explosive detection regime. Should we interpret this to mean that the Department is open to an explosive detection system regime that does not rely exclusively or even primarily on certified EDS equipment? Should we interpret this to mean that explosive detection and baggage security should be a multilayered and varied system? In other words, how do we read this?

Mr. MAGAW. Yes, it should be multilayered. My concern is that 10 months from now we will reach the goal that the law has asked us to reach, and lo and behold, we will have technology that is going out of existence or that there is some better technology on the market. So we are looking at everything.

Right now there is no one item, no one technology that covers all of our concerns and the concerns that you have. So we are trying to figure out what two technologies together or three technologies

together would meet the needs for the kind of risks that that particular airport has and also what the airport is able to put in.

For instance, Dulles Airport. To put the proper number of Explosive Detective Systems (EDS) machines in there to screen all the bags would totally fill their lobby. So what is a practical way of doing this? We're trying to do the best job we can at that.

Each one of the technologies has a deficiency. There hasn't been a lot of money in the past years put into research in this area.

I believe that with the entrepreneurs out there, and more money going into research, that 2 or 3 years from now we will have a much different technology in terms of size and in terms of error free than we have now. So we are trying to watch all of those as we move forward and mix and match them as best we can.

For instance, EDS takes much less personnel than does the trace detection. Each one of them has their deficiencies, and we would be happy to talk to you in private about them.

#### EXPLOSIVES DETECTION SYSTEMS

Senator SHELBY. Speaking of EDS, the Department of Transportation Inspector General Ken Mead has indicated that the airport site preparation cost required for installation of EDS machines may be almost as costly as the machines themselves. How does TSA propose to handle the construction cost at airports associated with installation of EDS machines? Of course, we have got a December 31 date.

Mr. MAGAW. Right now the general plan, Senator, is to install a machine in the lobby we will go up to \$175,000, which is more than what is needed to install it. If, let us say, we are putting three machines into an airport and two of them cost \$125,000 each, we will provide the other \$50,000 if the airport wants to and it looks feasible, to put an in-line system behind the counter or something like that, which costs a little more. But we are going to try to stay at the \$175,000 for each machine, whether that involves moving walls or whatever it might involve. So that is where we are working right now.

Senator SHELBY. Thank you, Madam Chairman.

#### THREAT CONDITIONS

Senator MURRAY. Thank you, Senator Shelby.

A few weeks ago, Governor Ridge announced the establishment of a Homeland Security Advisory System, setting up five threat conditions. Each condition sets in motion protective measures designed to reduce the vulnerability to security threats and increase the response capability. Prior to Governor Ridge's announcement, the railroad industry set up its own four-tier alert plan.

Mr. Magaw and Mr. Rutter, how does the railroad industry's plan fit or not fit with the threat plan designed by Homeland Security?

Mr. MAGAW. The Homeland Security program, as it was put together, involved virtually all of the Federal agencies. It was reached through a lot of discussion, primarily with the intelligence units, because intelligence is where we hope to be able to offset some of the weaknesses that we feel we have in some of our transportation modes. I believe the Homeland Security one will work

very, very well as a national one across the country. But maybe Administrator Rutter could comment on the railroad one.

Mr. RUTTER. One of the things, certainly, that we're expecting to get out of our own internal third-party assessment of the railroad risk analysis and vulnerability assessment is a judgment on how we can take what has been identified as a plan for the railroads to do, and mesh it with what Homeland Security has pointed out.

It's my impression, although we'll certainly wait for that product to be prepared, that our approach on rail security ties into what Homeland Security has provided, because those varying levels on the one hand depend on response, but the main thing that it gives us is: how do we get the intelligence information in the first place?

So we'll be looking to adjust those plans to take into consideration what Homeland Security has already provided.

#### COMMUNICATIONS BETWEEN AGENCIES

Senator MURRAY. I understand the decision to move from one threat level to another is currently being communicated to the various transportation industries through the Secretary's Office of Intelligence and Security. And I have heard complaints that the Office of Intelligence and Security is not getting sufficient input from the FBI to determine whether the heightened security levels are necessary. Is that true?

Mr. MAGAW. Madam Chairman, that is not true. Our intelligence unit not only interfaces very closely with the FBI, but we have personnel there and they may from time to time have personnel in our shops. What we want to do is to make sure that in our structure we have an Associate Under Secretary position for intelligence. It is one position below my position. That is how important we believe it is.

We are searching now for a person who has international intelligence experience that will be recognized as equal and capable of being involved at every level, whether it be at the White House, in Condoleezza Rice's intelligence part or whether it is at the CIA or the FBI. Right now Transportation Security Administration intelligence is involved in all of those committees.

Senator MURRAY. Will TSA be taking this over at some point?

Mr. MAGAW. TSA already has it. That was part of the changeover from FAA, the intelligence part of it. It is now mingled very closely with all the other intelligence units. So our Associate Under Secretary for Intelligence and Security is going to have intelligence for all of Transportation and will be very closely intermingled with Homeland Defense, CIA, NSA, FBI. So you will not find cracks there.

Senator MURRAY. Mr. Clapp, how you intend to make this alert plan relevant and applicable to the independent owner-operators with hazmat endorsements?

Mr. CLAPP. Well, we look a whole lot more like the general population. I don't have a direct line to every owner-operator, but we do have existing lines of communication with the industry, both at the State level and at the Federal level and with all kinds of organizations that represent drivers, as well as where drivers congregate in their companies.

Senator MURRAY. Yes, Captain.

## TRANSPORTATION INFORMATION OPERATIONS CENTER (TIOC)

Mr. MCMAHON. Madam Chairman, I wanted to mention that one of the efforts at the Department is to set up what will be called a Transportation Information Operations Center, or TIOC. And the purpose of the TIOC is to be able to deal with not only security information, but other relevant information, to push it out from the Department to the industry and from the industry back to the Department and then to share information with Federal agencies.

So in the case of motor carriers, through their associations and perhaps even through the Teamsters Union or something like that, our TIOC is envisioned to have the ability to communicate a security alert, to an association, to some group that can then disseminate it further. So we are working on ways to effectively do that. And our interim TIOC will be on line 24/7 April 1. And we're in the process of constructing a full center which should be completed by the end of the summer.

## SMART BORDER

Senator MURRAY. Mr. Magaw, in your formal opening statement, you discussed the Administration's new Smart Border declaration. That is an initiative designed to expedite the travel of cargo across the United States-Canadian border. I am concerned about cargo that is destined to the United States, that will be sent to Canadian ports instead of United States ports, because the security requirements will be more lax. Can you assure this subcommittee that containers coming into the United States via Canada and containers entering U.S. ports will be subject to the exact same security requirements?

Mr. MAGAW. I will just comment and then have Admiral Pluta talk about it for a moment. Clearly any program that TSA puts together will be put together with fairness to all. I understand the importance of the Mexican border and the Canadian border and the countries we deal with. But if the admiral would discuss it.

Admiral PLUTA. Yes, sir, I'd be happy to. Madam Chairman.

Senator MURRAY. Admiral.

Admiral PLUTA. We have for a long time been collaborating with Canada. And during last May's visit to the IMO, I signed a MOU with both Canada and Mexico on port security. In preparation for our IMO meeting, we had a video teleconference with the Canadian delegation as well, to make sure that we were in sync, so that we wouldn't have the disparity of having people compete on the basis of security. And this is exactly why we're going to IMO, to have an international standard so that everybody has the same basic level of security in the maritime mode, so that mode of international transportation won't be something upon which somebody can compare security. It will all be the same. That's the approach that we're talking, Madam Chairman.

Senator MURRAY. Will containers entering U.S. ports be more likely to be inspected by the Customs Service or Coast Guard than containers coming through Canada, entering through Canada?

Admiral PLUTA. I'm sorry. I didn't catch your question, Madam Chairman.

## CONTAINER INSPECTION

Senator MURRAY. Will containers that are coming into U.S. ports be more likely to be inspected than containers coming across the Canadian border?

Admiral PLUTA. In the scenario that we're trying to work with Canada, we would both subject containers to the same level of inspection. In fact, Madam Chairman, there was a DOT delegation that Admiral Loy was a member of that set up a 20-point program of cooperation with interborder type issues, security issues, with Canada. And I think the objective of this program is to avoid exactly what you're talking about, Madam Chairman.

Senator MURRAY. Will the ratio of U.S. Customs officers to containers be the same for U.S. ports and Canadian ports?

Admiral PLUTA. I can't answer that question, Madam Chairman, for Customs. Maybe Mr. Magaw could help me out here.

Mr. MAGAW. No. I think we'd have to ask Customs that question. [The information follows:]

The U.S. Customs Service anticipates that the ratio of inspectors to containers in Canadian ports will be higher than the ratio of inspectors to containers in U.S. Ports. In Canada, Canada Customs and U.S. Customs rely upon a manual review of paper manifests. This is the result of several factors including the fact that the percentage of carriers that transmit manifests electronically is lower in Canada than in the U.S. Since the U.S. system is highly automated, U.S. Customs expects that fewer inspectors will be needed in U.S. ports.

The number of inspectors conducting targeting operations in the U.S. and Canada currently differs. At this point, there is one Canadian Customs inspector located in Tacoma/Seattle, Washington and one in Newark, New Jersey. U.S. Customs has staffed both Montreal and Vancouver with three inspectors, while Halifax is staffed with two inspectors. These staffing levels may change as the program evolves.

## CONTAINER SECURITY

Senator MURRAY. Captain.

Mr. MCMAHON. Madam Chairman, just one point on that, and I think it was brought up earlier as far as container security. The best way we can ensure container security, whether a container is coming from Canada, Mexico, or through our ocean ports, is information and to know what, in fact, is in that container and who shipped it. And that knowledge, that feeling of security, is not contingent on whether it's coming into a U.S. port or a Canadian port. We're just as interested in transhipped containers coming through Canada, and perhaps in some cases more so, for these same reasons.

So that's one of the efforts of our container working group, working with Customs and other agencies, to ensure that information is as accurate as possible.

Senator MURRAY. Admiral.

Admiral PLUTA. Madam Chairman, I was just informed that Canadians and the U.S. Customs Service have an exchange program. We have just exchanged three customs officers from the United States to work in Canada as well as those coming over here in an exchange program, to try to sort out those things and make sure that we're dealing with the cargo issues in the same manner.

Senator MURRAY. Very good.

Admiral PLUTA. Thank you, Madam Chairman.

## ADVANCED NOTICE OF ARRIVAL REQUIREMENTS

Senator MURRAY. Admiral Pluta, the Coast Guard recently changed the advance notice of arrival requirements from a 24-hour advance notice of arrival to a 96-hour time period. At the same time, you are requiring ships to send a list of all their crew members so they can be checked against national security screening lists. That requires the screening of over 9,000 names a day.

Earlier this week it was reported that the screening process is so cumbersome that oftentimes the ships have come and gone before the screening confirmations have gotten back to the Coast Guard. It was also reported that there is very little the Coast Guard can do when they are given fictitious names of crew members.

Admiral, why does it take so long for the Coast Guard to screen these names?

Admiral PLUTA. Madam Chairman, first please let me say that we do look at the crew members and we focus on high interest vessels first and other vessels later. The reason that it's taking so long is because we don't have that information submitted to us electronically. In order for us to get this rulemaking on the street expeditiously, we were limited by procedure to not making radical changes. And making a change from a paper submission to an electronic submission was more than we were permitted to do. So we're including that electronic submission in our final rule, and we're working with the U.S. Customs Service and their APIS System, the Automatic Personnel Identification System, to use their system to electronically vet people.

Senator MURRAY. When can we expect that to happen?

Admiral PLUTA. In June the regulation can become final, and I can't answer beyond that, Madam Chairman.

Senator MURRAY. Okay.

Admiral PLUTA. But we are working with the industry. In fact, we already have a working agreement with the International Council of Cruise Lines, who voluntarily use the APIS System for the most part to get people to submit electronically. And there seems to be a very warm reception to that whole idea. I think we're going to get voluntary compliance before the Administrative Procedures Act.

Senator MURRAY. What do you plan to do about fictitious names?

Admiral PLUTA. The Credentialing Direct Action Group and the IMO initiative to get background checks for seafarers and identification for seafarers is going to resolve this problem hopefully over time. We can't deal with fictitious information right now. We have to accept it at face value. But the initiative that we went forward with at the IMO was to establish a central identification database for all mariners from all countries.

The issue of background checks for mariners is very contentious at the IMO. But we are working between the IMO and the International Labor Organization to get a standard for all seafarers to be identifiable before they come into our country. And we are working with INS, who is also a member of our delegation, to make sure that that identification would be equivalent to a passport kind of

identification level, so that we would be more conscious of everybody who is coming our way, Madam Chairman.

#### RISK OF FOREIGN VESSELS ENTERING THE UNITED STATES

Senator MURRAY. Admiral, with the vast majority of vessels entering the United States being foreign flagged and operated by foreign crews, it is only natural that you have looked for international support to ensure that these vessels do not present an unusual risk to our national security. One goal you announced in this area is to accelerate the requirement for every ship to have an automated information system or a transponder by 2004. Without those transponders, as the case is today, we effectively do not know what ships are in our waters. How likely is it that you will achieve unanimous consensus for this requirement at the International Maritime Organization meeting in December of this year?

Admiral PLUTA. Madam Chairman, I'll be better able to answer that question in May, but I feel very optimistic about that. We suggested to the IMO that it accelerate this requirement. It's an existing requirement that had a preexisting time frame that ran through 2008. And we suggested that they accelerate it through 2004. After a lot of discussion, the language that came out of the inter-sessional work group was that this equipment would be installed at the first special survey after the first of July of 2004, but no later than December 31, 2004. And that seemed to be the consensus opinion, although there were several countries that offered other alternatives that would string it out for some classes of vessels a little bit further.

Senator MURRAY. You are hoping to get International Support. But if you do not get international support to accelerate this at your next meeting, do you think it is time we put in place a requirement as a port state and mandate that any ship that enters our water has a transponder, so we at least know what ships are operating in our waters?

Admiral PLUTA. Madam Chairman, I think if we don't succeed at the IMO in getting that time frame, then that's our only alternative.

#### PORT OF ORIGIN CONTAINER EXAMINATION PROGRAM

Senator MURRAY. Admiral, a second goal of your international outreach included seeking support for a port of origin container examination program, where containers would be inspected at their point of origin, so that when they finally arrive here in the United States we will have some level of comfort that the contents of the container are as they were advertised on their cargo manifest. In reality, how smart do you really think it would be for us to rely on security screening procedures that are put in place by countries like Malaysia or Indonesia or the Philippines?

Admiral PLUTA. Madam Chairman, if we establish an international standard, and if we have an auditing system of trusted agents that can be vetted to vet the cargo themselves, if we have a good working relationship between the IMO, the World Customs Organization, our own Customs Service and our larger bilateral partners, you have to trust to a degree, but you have to check as well. And I think that has to be part of it. But we're building those

blocks at the IMO from the ground up. Establish what is the minimum standard, first, and then we can hold people to it through port state control provisions and check with either the Customs Service or other overseas trusted agents. In that case, I would be willing to trust what's coming in our direction, Madam Chairman.

Senator MURRAY. In a lot of the Asian ports there are independent barge operators that transfer as few as four containers at a time. How do we ensure the security of operations with facilities like that?

Admiral PLUTA. Madam Chairman, we have to apply the same standard regardless of the volume. I think it's up to the Administration in the case of Singapore, China, or Hong Kong to make sure that the same standard is applied to all operators. And that would be a condition of a container being permitted to be loaded on a ship bound for the United States, Madam Chairman.

#### NATURAL GAS PIPELINES

Senator MURRAY. Thank you very much.

Ms. Engleman, let me go back to you. Earlier this year your agency put out a proposed rule which would prevent natural gas pipelines from being installed near hospitals, schools, daycare facilities, and other facilities having persons who are disabled. The natural gas industry has been lobbying against that proposed rule. And given the security threat proposed by natural gas pipelines, do you think it is responsible for the gas industry to try and weaken that proposal?

Ms. ENGLEMAN. I believe that we have to look at all aspects of security, as well as safety, when we look at the natural gas rule. As you are aware, that is step one of our integrity management program for gas. We will soon follow the notice of proposed rule-making with the actual program. And that program will incorporate the elements of locations. It will go beyond just population and concerns for the high—

Senator MURRAY. Will RSPA weaken its proposal in that area?

Ms. ENGLEMAN. We're in the rulemaking process now, ma'am. We're looking at all aspects of the comments that are coming back from industry. That's part of the general procedure. However, we do continue to have a focus on safety and security as our primary decision maker.

#### ADMINISTRATIVE PROCEDURES ACT

Senator MURRAY. Mr. Magaw, the issue of the Administrative Procedures Act has come up several times this morning. Do you believe that we should waive the Administrative Procedures Act in the case of transportation security regulations?

Mr. MAGAW. Well, certainly if we have particular circumstances, events, or discoveries as we move forward that need immediate action, I would think that we ought to have that authority, but we ought to make sure that we use it very cautiously.

Senator MURRAY. Okay.

Mr. MAGAW. Some of those authorities are in the new Aviation Transportation Securities Act. I don't intend to use them unless I have to use them, but the ones that are there, allow me to make airline industry regulations, but it has to be very carefully mon-

itored by Congress so that it is not misused. I guarantee we will not misuse it.

Senator MURRAY. What about for other modes?

Mr. MAGAW. I would think it would be valuable for other modes with close observation of Congress.

#### AVIATION SECURITY

Senator MURRAY. Let me move on. Mr. Magaw, while this hearing really is about cargo security, I did want to take a minute to ask you a couple of questions about aviation security. We are told that we may be receiving the Administration's supplemental funding request for the current year perhaps even today. Do you expect that the amount of funding requested for your agency in the supplemental will be sufficient to enable you to fully meet your deadlines for federalizing the screening functions and testing all checked bags for explosives by the end of this year?

Mr. MAGAW. The figure that we are working with now, which we would hope the President will authorize, would allow us to do what you just said, meet the requirements of the baggage and the screening and the training and the hiring of the screeners.

Senator MURRAY. You are hoping?

Mr. MAGAW. No. I believe that the amount that's in there now is \$4.3 billion. If that comes forward to you at \$4.3 billion, we will be able to meet the requirements with that.

Senator MURRAY. Without causing undue delay for passengers?

Mr. MAGAW. Without causing undue delay for passengers. It will not allow us to do some of the perimeter airport security that we had planned. It will not allow us to do as much in cargo as we planned. But it will allow us to get started in the cargo area. It will allow us to continue moving forward in 2003.

Senator MURRAY. So I can assume that it will not have enough to cover a lot of the issues that we have discussed this morning?

Mr. MAGAW. No. It will have money in there for most of those issues. In fact, it has money in there for 200 personnel to hire as cargo inspectors and cargo supervisors. So it will get us started in that area.

#### EXPLOSIVE DETECTION SYSTEMS

Senator MURRAY. By the end of this year you are required to have new explosive detection systems installed in every airport across the country for the purpose of screening all of our checked baggage. This is a huge undertaking that is going to take a lot of cooperation between your agency and all the airports. I have had a number of airports talking to me in the last few weeks, who really feel that they are being kept in the dark by the agency and want to know what is going to happen to their facilities within the next few months. Do you think your staff at the TSA knows how and where best to install explosives systems, more than the airports?

Mr. MAGAW. Oh, absolutely not. I can understand, Madam Chairman, their concern. Two months ago, this organization was a white piece of paper and me. We now have Federal personnel in each of the airports, but they are not the new Federal security directors. I can understand that the managers of airports, the operators of airports, and the airlines themselves, are concerned. The message

that we want to send is that every airport is different. You are the masters of your airport. We are going to come in there and coordinate with you. The only thing that they would have problems with us is if they want to build let us say, lanes to bring groups through that are more than what they would need for that airport.

We have a pilot program right now at Baltimore-Washington International. Those lines went from an hour and a half to 18 minutes. The other day they were 12 minutes. Now that was by building one more lane, but putting all the kinds of practices in place that we could figure out with the people at the airport. It was all done with the leadership at the airport.

For instance, simple things like instead of taking all of your things out of your pocket and putting it in the plastic container as you stand there at the x-ray machines at the same time you are trying to put your carry-on baggage through, it is done back in the line. So when you walk up there, there is no dropping of things. You already had a chance to check, so that there are less delays because you put more in that box as you come up through there, because you think about it. Therefore you don't trip the machine as often. There is not that dropping and picking up and mad scramble.

The other thing is in terms of wandering. If you trip the machine, you step off to the side where you are wanded, and able to watch your own valuables, so that there are not complaints of missing it. The wandering, then, takes place as the machine is still functioning, bringing passengers through.

So that blueprint, although it can't fit exactly in every airport, the lessons learned there will fit. We are going to give those lessons learned to the airports. But the airport people are sitting there, knowing all this is coming, and asking "how does it affect me?" What I am trying to do is talk to each one of them. We have a conference call every two weeks to talk about their particular concerns. They have places to call each day to try to work their concerns out. But once we get those Federal security directors at each airport, those concerns will go away.

#### HIRING OF FEDERAL SECURITY MANAGERS

Senator MURRAY. You have only hired a handful of these Federal security managers. When do you expect to have those in place?

Mr. MAGAW. The eight that we already have hired are developing the plans and being trained right now. There is another group of ten that the Secretary has approved. There is another group of 15 or 20 that the Secretary will approve in the next few days. After that, we are going to be rolling them out at about 25 to 30 a week. And so it will take us through the summer.

Senator MURRAY. It will take us through the summer?

Mr. MAGAW. I believe before they are at all the airports. Now at the 81 airports, they will probably be there within the next 6 weeks. But in terms of all 429, it will take us probably through the summer. There is Federal presence on board now. The interim Federal security director is at every airport.

The problem they have is that they were pulled from their assignments and put out there. We are trying to make sure we give them directions as we go along, so that they will be working with

the airport people, taking their ideas, putting the plans together as they see it. The airports really have to make the plan. All we are going to do is just say, "yes, it makes sense," and "let's do it."

Senator MURRAY. I know you are a proud veteran of the Secret Service, and I have a lot of respect for the work of the Secret Service, but I wonder why so many of your new appointees at TSA come from the Secret Service. How many of your new senior managers are veterans of the Secret Service?

Mr. MAGAW. Of the eight airport directors that were just selected, four of them have a Secret Service background. One has ATF background also. On my staff—this is going to be an estimate, because I can't run all of them through my head right now—we have about 35 that we have hired at headquarters. Probably 8 or 10 of those have a Secret Service background.

Senator MURRAY. Are you making a sufficient effort to bring in transportation specialists at the staff?

Mr. MAGAW. Yes, we are. We want to have a balance between those who have law enforcement background and those who have industry background. So as we have been talking with the modal administrators, and as we are talking to the Secretary in developing our staff, we want to make sure that in the land travel area, we have people from the trucking industry. In fact, there's a woman here today that has 40 years' experience in airline experience, from running—

Senator MURRAY. Do you have anybody who is a security director for a transportation company on staff?

Mr. MAGAW. Yes. He's coming on board, in fact, next week. He also has a law enforcement background, but he has been in the trucking business 4 years now. As Mr. Clapp and I were talking during the break, we need to find somebody who has a history in liquid transportation. So we are balancing it. While I want to make sure that we are looking at security issues, I want to make sure that we have a balance, both in the airports and in the headquarters staff.

#### EXPLOSIVES DETECTION SYSTEMS

Senator MURRAY. I want to ask you about the procurement of explosives detection systems. I know Senator Shelby asked you a bit too, but I am getting pretty worried. We have 9 months and 9 days left to install a sufficient number of explosive detection systems around the country to meet the deadline of screening all checked baggage. As I understand it, you have only contracted for a few hundred new explosive systems. I am told there will be several thousand that will be needed. Do you still think it is possible to meet this deadline?

Mr. MAGAW. Not only possible, but I feel more comfortable about it than I did, 3 or 4 weeks ago. Let me tell you why.

The problem is not putting the machine together, because it is basically bending steel. The problem is making sure that you get all the components, everything from the CAT scan to those kinds of things. Over 300 of those orders have gone out.

There are other manufacturers stepping up now that are saying, "We can produce some of those parts that make it."

There also are a number of companies stepping up, saying, "If we have the components, we can turn these machines out."

The problem we wanted to make sure that we dealt fairly with was with the companies that are already in the market and certified, that their rights were not violated. They have signed agreements that allow us now to have a major company set up an entire warehouse to just run these machines very quickly through as the component parts come in. So two companies that are certified are going to be making the maximum number that they can make. They are both gearing up to make more than what they thought they could. The shortfall will come from the big manufacturing unit. I am convinced we will reach that goal.

Senator MURRAY. Do you believe will we have those machines installed at all the airports by the end of the year, or are we going to be looking at alternative means to do this?

Mr. MAGAW. If you have an airport that can only handle so many of the EDS machines and there is no way to reconstruct that in time to put all EDS machines in there, then the alternative means that we would be looking at is the ETD machine; that is the swipe type machine. Much smaller, but it takes more people to do it.

So what we are trying to do is look at each airport, what is feasible at each airport, and then what plan do we go about it. But by the deadline, we will be examining baggage through one of those two technical systems, or both of them in tandem.

#### CUSTOMER SERVICE

Senator MURRAY. Mr. Magaw, you have spoken in the past regarding the importance of good customer service when it comes to the way the TSA treats air passengers. Secretary Mineta has publicly called for a wait time of no more than 10 minutes for passengers to get through the screening process. Has the TSA taken Secretary Mineta's 10-minute standard as a hard and fast customer service standard for the future?

Mr. MAGAW. We have taken that as a goal. We are working for that at every airport. Some of those airports, in order to do that, will take some restructuring of exit and entry lanes. So it may take us a while to get there. But that is our goal. In fact, our vision statement, our mission statement, and our values list all the kind of things that you are talking about in terms of not only top-flight security, but quality customer service. That is in our training of our new first screeners being trained this week and next. The first group is coming through. And that's an essential part of the training. First class security, but also first class customer courtesy and respect and service.

#### SUBCOMMITTEE RECESS

Senator MURRAY. Well, thank you very much to all of our witnesses today for taking time on this important hearing. This subcommittee will now stand recessed until Thursday, April 4, when the subcommittee will take testimony on port security in Washington State.

[Whereupon, at 11:37 a.m., Thursday, March 21, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

## **DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2003**

**TUESDAY, APRIL 16, 2002**

U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.*

The subcommittee met at 10:35 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Patty Murray (chairman) presiding.

Present: Senators Murray, Kohl, Durbin, Shelby, Bennett, Campbell, and Stevens.

### **DEPARTMENT OF TRANSPORTATION**

#### **FEDERAL AVIATION ADMINISTRATION**

#### **STATEMENT OF HON. JANE F. GARVEY, ADMINISTRATOR**

##### **OPENING STATEMENT OF SENATOR PATTY MURRAY**

Senator MURRAY. The subcommittee will come to order.

Already this year, this subcommittee has had three hearings on the topic of transportation and security. It was my hope that our hearing today could focus solely on the issues of aviation safety and capacity. Those were the two critical aviation issues this subcommittee was most focused on prior to September 11. And now, even with all the concerns we face in the area of aviation security, I still believe that we must pay more attention to them.

Before September 11, air traffic was growing at a rapid rate, as was our economy. We were celebrating an historically long period without a major domestic airline disaster, even while air traffic was reaching historic highs. The events of September 11 did much to depress air traffic, and then on November 12, American Airlines flight 587 plunged into Rockaway Beach, Queens, the result of a clear safety failure.

Today, we are starting to see air traffic return in some markets to pre-September 11 levels. Our aviation industry and our national commercial aviation enterprise is trying to get back to normal, even as we all worry that the next terrorist attack may be right around the corner.

We are beginning to see the fruits of certain FAA investments to improve the efficiency of our aviation system. We have finally begun installing ground proximity radars to prevent runway incursions, and I was pleased to host our witness, Administrator Garvey, in Seattle 2 weeks ago for such an event.

We have installed new technologies in some of our busiest control towers to keep airplanes moving during the summer storm season. At the same time, we continue to see either performance or cost problems with some of the most important FAA procurements on the horizon: performance problems with the new ASR-11 radars, which are expected to replace the aging analog radars at airports; cost overruns associated with the STARS program, which will provide new, desperately needed displays and computer equipment for air traffic controllers; and diminishing expectations of what the WAAS program can provide, a program designed to move the aviation industry into the era of satellite navigation.

While it would be valuable and instructive to focus on just these issues alone, I am finding that, as I wade into the details of the Administration's aviation budget, it is impossible to ignore the issues surrounding the financing of aviation security. Notwithstanding the fact that this subcommittee fully funded the FAA's Operations budget request last year and granted several hundred million dollars more for emerging security needs, the FAA is currently contemplating a number of austerity measures for the current year due to the lack of available funds. These austerity measures include a hiring freeze on all air traffic employees that are not air traffic controllers or maintenance technicians, delaying the hiring of new air traffic controllers, reducing the maintenance on redundant safety systems, and reducing training for air traffic controllers.

On top of those challenges, the FAA has had to urgently invest \$100 million in order to better protect its own air traffic control facilities against a potential terrorist threat. At least in this case, the Administration has asked us to provide the FAA with an extra \$100 million, but it has done so in a most misguided manner. Rather than ask for an emergency appropriation similar to the \$4.4 billion in additional funding that has been requested for the Transportation Security Administration, the Administration is asking that this \$100 million be diverted from funds already appropriated for capital investments in the FAA's Facilities and Equipment program, and the Airport Improvement Program. This proposal comes at a time when the FAA is already required to divert funds away from its capital needs.

In order to continue the operations of the Essential Air Service (AES) Program, Administrator Garvey must divert \$50 million from existing capital programs. There is also roughly \$25 million that needs to be rescinded as a result of Congressional action. And finally, there is an additional \$38 million that must be found to keep the STARS program on schedule, because of cost overruns that have burdened that program.

So, I do not see the wisdom in cutting capital investments further to pay for the protection of FAA facilities. We should appropriate these emergency security funds in the same way that we fund the urgent needs of the Transportation Security Administration.

As I review the Administration's plans to implement the Transportation Security Act, it is clear that there will be a continuing tension between the needs for safety and the need for security. The Transportation Security Act allows funds appropriated to the Air-

port Improvement Program (AIP), our priority grant program for airport safety and capacity enhancements, to be used for security-related expenditures for 2002 only.

The hope, at the time the Security Act was written, was to help the airports cover a portion of their costs associated with hiring additional law enforcement personnel and other security expenditures. I am now concerned by indications that the Administration is looking to use the entire AIP program, all \$3.3 billion, as a funding source for the installation of new explosive detection systems. While I support the investment in security, I do not think it is wise to suspend an entire year of Federal investment in projects designed to help our industry grow and ensure the safety of the flying public.

While the Administration's supplemental budget request for an additional \$4.4 billion for the TSA was submitted to the Congress almost a month ago, they still have been unwilling to brief this subcommittee on the details of their plans to purchase and install explosive detection machines. Those machines will be needed to comply with the requirement to screen all checked bags by the end of this year.

But the Nation's airports, like this subcommittee, cannot get any straight answers out of the Administration as to how this requirement is going to be met. Clearly, the Administration is struggling internally to determine how or whether it will implement the letter of the Security Act, the spirit of the Security Act, or its own unique interpretation of the Security Act.

I, for one, do not believe that we can afford to take a full year hiatus from investing in critical safety and capacity projects at our Nation's airports. We should not divert every dollar of airport grant funding for security expenditures. If we allow this to happen, we will once again find ourselves struggling to handle a growing number of delays and congestion at our Nation's airports. Those security expenditures need to be paid for and should not be done at the cost of safety and capacity projects. With that, I recognize the subcommittee's ranking member, Senator Shelby.

#### STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you, Madam Chairman.

Now that responsibility for the security of the aviation system has shifted to the Transportation Security Administration, the FAA must focus on being prepared for the return in demand for air travel.

The current decline in air traffic presents the FAA with an opportunity, I believe, to get ahead of future demand by developing a strategic plan for addressing capacity constraints and modifying the modernization effort to accelerate development of the acquisition programs with the greatest potential.

At the same time, we must remain ever mindful of the need to constrain operational costs and enhance the efficiency of air traffic services delivery. Ultimately, our efficiency in modernizing the National Airspace System, and providing air traffic control services, translates into making air travel more affordable for all Americans and making our economy that much more competitive. Clearly, if

the FAA continues along its present, inefficient course, when the traffic returns, so will the delays.

But, Madam Chairman, it is difficult and unwise to discuss aviation safety or capacity issues without addressing aviation security. While I appreciate the difficulty of creating and staffing a new agency from scratch, there is no excuse for making decisions from behind a closed door or for perceiving that the formulation and disposition of security-related matters are exempt from accountability.

Time and time again, information from TSA has not been forthcoming and affected stakeholders have not had opportunities to present their cases before decisions are made.

One of the most immediate issues involves the funding source to pay for the implementation of new security requirements, including in particular the installation of the explosive detection systems. I have been told that until this and other security-related costs can be determined, the FAA will not issue any AIP grants and is holding the funds in abeyance. That is like saying that we are not going to pay for cholesterol-reducing drugs because we are saving all of our money for open-heart surgery.

I believe that the Department must pursue the critical security improvements and requirements, while keeping important capacity and safety projects on track. The construction season in some States will begin soon, and unless the funding suspension is lifted, several multi-year projects will be in jeopardy.

The FAA's acquisition programs, on the other hand, seem to be continuing virtually unaffected by the terrorist attacks of September 11. This is short-sighted, I believe. Instead of ignoring changing circumstances, even those brought about by tragedy, the FAA must, I believe, revalidate the need for various acquisition programs within the context of new security procedures and security requirements.

This is a call to look at programs like WAAS to confirm that the programmatic solutions the FAA is pursuing are still the right solutions. We really, really should be constantly revalidating our modernization program and asking the FAA and industry if there are better, safer, and more efficient ways of meeting our modernization and security goals.

I also continue to be concerned, Madam Chairman, that cost increases, schedule delays, and reduced capabilities are the norm with FAA's acquisition programs, not the exception. Furthermore, I am concerned that the FAA is abusing its procurement flexibility.

At my request, the Inspector General conducted a rigorous analysis of competition in air traffic control contracts, and determined that the FAA awarded six of nine large contracts, valued at more than \$1.25 billion, on a non-competitive basis. The intent of procurement flexibility was to overcome the barriers that can delay an acquisition program from benefitting the flying public and save taxpayer money along the way. Instead, it appears that the flexibility is being used for convenience of program managers. Madam Chairman, procurement flexibility was granted in order to accelerate modernization, not to trample on the legitimate expectations of fairness engendered by competition. When the FAA does just that, and then does not realize any efficiency in program delivery or cost savings, we are getting the worst of all worlds.

Madam Chairman, fiscal year 2003 will be, in many ways, a pivotal year for the FAA. The AIR-21 authorization act expires, as does the labor agreement with the air traffic controllers union. In anticipation of the reauthorization process, it is my hope that the supporters of fire walls, whether in the Congress or from groups that claim to benefit by them, will make an honest determination of their value and understand their limitations.

As I have stated before, special budgetary protection effectively establishes a funding ceiling, not just a funding floor, and minimizes our ability to make adjustments due to changing circumstances, such as new security requirements. Furthermore, programs with special budgetary protection become a source for funding noncapital priorities, and that is why the funding for the Essential Air Service Program is being requested in AIP, which is one of the so-called protected accounts.

Finally, I want to join you, Madam Chairman, in commending FAA Administrator Jane Garvey for her dedication and her leadership over the past 5 years. While the job certainly has its rewards, it certainly has its challenges, and perhaps more challenges than rewards.

As this may be your last appearance as FAA Administrator before this subcommittee, Madam Administrator, I would like to get your candid advice for your successor, a sense of what you think you did right, a sense of what things you might have done differently. Perhaps you could make some comments along those lines in your opening remarks.

Madam Administrator, I believe your sense of service was evident by your decision to continue in your position at the FAA through the end of the term, despite the change of administrations.

I believe it was just as important that you remained in your position to provide stability to an organization that was rocked by the terrorist attacks of September 11. The FAA is one of those places in government where leadership at the top, sustained over a period of time, is necessary before real change can be implemented.

You have provided that leadership and we are seeing some progress now because of some of your initiatives, including Free Flight, Safe Flight, and capacity benchmarks. I commend you for that. Thank you.

[The statement follows:]

PREPARED STATEMENT OF SENATOR RICHARD C. SHELBY

U.S. Senator Richard C. Shelby (R-AL), Ranking Member of the Senate Transportation Appropriations Subcommittee, today commented on aviation safety and capacity issues:

Now that responsibility for the security of the aviation system has shifted to the Transportation Security Administration, the FAA must focus on being prepared for the return in demand for air travel.

The current decline in air traffic presents the FAA with an opportunity to get ahead of future demand by developing a strategic plan for addressing capacity constraints and modifying the modernization effort to accelerate development of the acquisition programs with the greatest potential.

At the same time, we must remain ever mindful of the need to constrain operational costs and enhance the efficiency of air traffic services delivery. Ultimately, our efficiency in modernizing the National Airspace System and providing air traffic control services translates into making air travel more affordable for all Americans and making our economy that much more competitive.

Clearly, if the FAA continues along its present, inefficient course, when the traffic returns, so will delays.

But, it is difficult and unwise to discuss aviation safety or capacity issues without addressing aviation security. While I appreciate the difficulty of creating and staffing a new agency from scratch, that is no excuse for making decisions from behind a closed door or for perceiving that the formulation and disposition of security-related matters are exempt from accountability.

Time and time again, information from TSA has not been forthcoming and affected stakeholders have not had opportunities to present their cases before decisions are made.

One of the most immediate issues involves the funding source to pay for the implementation of new security requirements, including in particular the installation of the explosive detection systems. I have been told that until this and other security-related costs can be determined, the FAA will not issue any AIP grants and is holding the funds in abeyance. That's like saying we're not going to pay for cholesterol reducing drugs because we're saving all our money for open-heart surgery.

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Finally, I want to join Chairman Murray in commending FAA Administrator Jane Garvey for her dedication and leadership over the past five years. While the job certainly has its rewards, it certainly has its challenges—and perhaps more challenges than rewards.

As this may be your last appearance as FAA Administrator before this subcommittee, Madam Administrator, I would like to get your candid advice for your successor, a sense of what you think you did right, and a sense of what things you might have done differently. Perhaps you could make some comments along those lines during your opening remarks. I believe your sense of service was evident by your decision to continue in your position at the FAA through the end of the term, despite the change of administrations.

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You have provided that leadership and we are seeing some progress now because of some of your initiatives, including Free Flight, Safe Flight, and capacity benchmarks.

Senator MURRAY. Senator Campbell.

STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL

Senator CAMPBELL. Thank you, Madam Chairman.

I would like to join my colleagues, Jane, in congratulating you on 5 years at the head of the FAA. Who could have ever anticipated the tragedy that we all faced after 9/11?

I believe all three of us came on this committee about the same time in the last few years. Mostly what this committee did was listen to passenger complaints, on flight delays, cancellations, things of that nature, and the lack of available information pertaining to those problems.

Certainly, that has all changed. And while those problems may continue, our focus certainly has switched to security procedures. And the tragic events of 9/11 were, in my view, were terrible and it forced us to put some things in place that I am not sure that we have yet found the balance between common sense and necessity to protect the public.

Before 9/11, 4-inch knives were allowed on planes and security screening was pretty lax, untrained personnel, sometimes people could not speak English, security features on the planes were weak. The cockpit doors, for example, were easily breached. And I realize that many steps have been taken to correct that, because I fly home every weekend, as Senator Murray does too.

Our country's economy is dependent on travel and the mobility of commerce. Additionally, the people of the United States deserve to move about in a safe manner. So sky marshals, improvement in selection and training of airport employees, and improvement in security procedures, all of those things, I think, are a terrific step.

I guess my big problem is that there is such inconsistency out there still at the airports. Some airports I go through, they make me take my shoes off; others, they do not. It seems to me they ought to have some kind of a mechanism so that if I wear Western boots and if there is something in there that rings, they ought to all know it, not just some of them. But I think the last couple of weeks has really brought into focus some of the inconsistencies.

This little thing here, you know, you have seen it. It is a fingernail clipper. I had two of them in my pocket when I came through Dulles on the way to Denver last week; two of these little things. And they made me take them out, everything metal you take out. I took them out. And this person that was doing the inspecting looked at this and he said, "Open that up." And so I did. And you can see, it is a little file, about an inch long. There very common. You can buy them in any drugstore.

And this man said, "You cannot get on there with that." And I said, "Well, break it off." And he said, "Well, I cannot do that. You will have to break it off yourself." I said, "Okay." So I broke the thing off.

And he said, "Okay. That is fine. Now, you can take it on there." He did not say a thing about the other one. So I got on with one with a broken little file, and one without a broken little file. When I came back from Colorado this way this year, I forgot the one with the broken file, and I just happened to have the one in my pocket with the file, and nobody said anything.

While I was on the plane, Madam Chairman, I was doing some writing of notes, and I dropped my pen, this pen. And while I was fumbling around, I could not see where it fell under the seat, and I was groping for the thing. I stuck it in my hand, which leads to another interesting question. I mean, holy smoke, could that be a weapon if somebody was inclined to? Maybe it could.

But I guess I bring these simple little case studies to your attention, because there does not seem to be consistency yet about what we can take on, what we cannot, and if it is going to be the same in all airports. And you might try to address that.

I have a couple of questions I would like to ask the Administrator as we get along.

Thank you.

Senator MURRAY. Senator Reid has submitted a statement and asked that it be printed in the record.

[The statement follows:]

#### PREPARED STATEMENT OF SENATOR HARRY REID

Madam Chairman, let me begin by saying how pleased and honored I am to serve on this prestigious committee entrusted with appropriations to meet the nation's transportation needs.

Madam Chairman, it may be prudent to request the DOTIG to return to the Subcommittee and update his latest findings on STARS. Given his concerns about the risk in the schedule and costs requires we obtain more information before committing scarce 2003 funding to continue what appears to be a terribly troubled program. Now is the time to address these issues before our Air Traffic Control system becomes completely outdated and unsafe.

Mrs. Garvey, the STARS program is critical to the FAA's ongoing efforts to modernize the air traffic control system. Yet as I understand it, STARS is now \$700 million over budget, 4 years behind schedule and no full STARS workstations are yet deployed. We've been hearing for years from the FAA that STARS has "turned the corner". Unfortunately, this doesn't seem to be the case. The DOT IG has warned Congress on several recent occasions about STARS' schedule and costs risks. The IG also noted that the FAA has not been able to produce a deployment schedule and cost estimate for the 99 sites to be installed after 2004. And the number of "critical" trouble reports arising from the STARS software testing has increased over the last 6 months. All this is occurring at a time when the war on terrorism and increased homeland security funding is constraining FAA's funding.

In closing, I want to pledge my support to Federal Aviation Administrator Garvey. Finding the right balance between present needs and future musts for our nation's Air Traffic Control system is indeed a challenging task. As a senior member of this subcommittee, I'm committed to providing the necessary support and funding for the aviation transportation infrastructure of this great nation.

#### INTRODUCTION OF JANE GARVEY

Senator MURRAY. Thank you very much.

With that, we will turn it over to the Honorable Jane Garvey, Administrator of the Federal Aviation Administration.

#### FAA OPENING REMARKS

Ms. GARVEY. Well, thank you very much, and good morning. I very much appreciate Chairman Murray, Senator Shelby, and Sen-

ator Campbell being here this morning, and the opportunity to present the FAA's budget request for 2003.

And I very much appreciate the kind words that all of you have expressed to me this morning. But even more importantly, I do appreciate and recognize that any success we have had in the last 5 years has really been due to the leadership that has been provided by this committee. Certainly, the smooth transition to Y2K, modernizing the air traffic control system, the improvements in safety, are due in large part to the support that we have received from your leadership and from this committee, and I am very much appreciative of that.

I would like to briefly, if I could, address four issues. And Senator Shelby, I think it ties in to some of the comments you made about what are the issues that are important, what will the new Administrator need to focus on, as well. These are areas that I believe are reflected in the President's budget, but there are certainly issues that I will remain focused on between now and August.

#### TRANSITION TO TSA

Since the events of September 11, our focus, and I think rightly so, has been to restore the security of the national air transportation system. I have certainly been working very closely with Secretary Mineta, with Deputy Secretary Jackson, and Under Secretary John Magaw to ensure a smooth transition to the new Transportation Security Administration (TSA). That will remain a high priority for us.

While most of these issues are now with Transportation Security; and while Transportation Security is focused on many modes of transportation, we will work very closely with the Administration to ensure a smooth transition.

But I also am very mindful of the comments that you all have made, which is that while we must view everything through the prism of September 11, we really cannot and should not lose sight of some very important aviation initiatives. And that is critical and important as well.

#### OPERATIONAL EVOLUTION PLAN

And, again, I think if you look at the President's budget, it does reflect a strong commitment to the safety and efficiency programs within the FAA. It calls for a continuation of the Operational Evolution Plan; that is critical for us.

You may remember that about a year ago, we were in this room discussing the Operational Evolution Plan, and it really represents a 10-year commitment, not just from the FAA, but from the airports and airlines as well, to increase capacity by about 30 percent.

Again, with enormous support from this committee, we have begun to see some very strong benefits from that. You remember last year, we talked about seven choke point areas and the efforts we were going to take, the 21 initiatives. Those initiatives will all be finished by June. We have opened new sectors. We have put technology in place. All of that has resulted in a reduction in delays by about 20 percent. We saw those numbers before September 11 last summer, and we are still seeing those numbers as we move forward.

Last December, we opened a new runway in Detroit. That is included in the Operational Evolution Plan. We promised this committee we would do that; we did. It increased capacity at that airport by about 20 percent. As you have noted, we have met every milestone and every deadline with Free Flight/Phase One. I think that program is a success for us. So, certainly staying the course on the Operational Evolution Plan, recognizing that demand will come back, we know the numbers are down now, but clearly within the next 12 to 24 months, we will see demand back in full force.

#### SAFETY

I expect we will see some hub areas this summer where we definitely will see some increase in travel, and we may even see some of the delays that we want to avoid. With respect to safety, the President's budget reflects a strong commitment to the safety programs. Again with the help of this committee, we are making progress in our runway safety program. The annual rate of runway incursions declined overall in 2001. What is even more significant is the reduction in the most severe runway incursions, the ones that present the greatest risk.

Certainly, we are not declaring success in this area. We know we have more to do, but we think the trend is heading in the right direction. Our Air Transportation Oversight System, ATOS, is, in our view, another very significant safety program.

The Inspector General took a snapshot in time a year ago on this program and made some recommendations. They are very consistent with the recommendations that we ourselves have developed in cooperation with our own inspectors. They focused on two principal areas. The first area was really to incorporate and integrate our data. We have done that. The data was fully integrated in January of this past year. The second was to restructure the training programs for the inspectors. We have done that and about 92 percent of the inspectors have been retrained. All of them will be retrained before the end of the year.

I think if you asked the Inspector General, if you talk with Nick Sabatini, they will say "This is the right approach, and it affords the opportunity to re-target our resources where we see the greatest problem." So I think that is a program that needs to stay on target and to stay very focused.

#### FAA MANAGEMENT

Finally, Senator Murray, you and members of this committee have consistently expressed interest in the management of the FAA. Through your leadership, I think this committee has challenged us to use more corporate tools to better manage our own resources.

And I am very proud to say that the FAA received an unqualified clean audit on our financial statements for 2001. That was a phone call I enjoyed receiving from the Inspector General.

We are continuing our initiatives to fully implement our cost and performance accounting measures. We have a cost accounting system that is in place for the entire air traffic organization that represents 70 percent of the agency. Cost accounting will be fully in place by the end of this year, but we are already using it as a man-

agement tool to control our costs and to understand our costs much better. It is a very effective tool we believe in doing just as you have suggested, which is controlling the operational costs that we have for the agency.

So, four areas of focus for me between now and August, and I think probably for the next Administrator as well, and that is transition to the TSA, the Operational Evolution Plan, the safety program, and the management improvements. And in each one of those areas, I think we have made significant progress over the last 5 years. I think there is still a great deal that can be done, but I am very proud of the progress that we have made to date.

#### FINANCING

Finally, I would like to take just a moment to comment on this, on the FAA's 2002 budget. The agency, as you have suggested, Madam Chairman, is facing a shortfall of about \$200 million in its air traffic operating budget. That is due, as you have suggested, to higher security costs of almost \$90 million at our manned facilities, and to other unbudgeted costs we are facing.

Although we were able to offset some of the shortfalls with cuts in existing programs, we were not able to offset the full amount. Therefore, the President's supplemental request includes a provision that will allow the FAA to transfer \$100 million, as you have said, from our capital accounts to cover these unexpected security costs. We certainly would ask, once again, for the committee's consideration of this request as you debate the supplemental budget; and we certainly appreciate that consideration.

And finally as I mentioned, this will probably be my last, in fact, this will be my last appearance before this committee, before the Appropriations Committee. And just a personal note, it has been an extraordinary 5 years. I will say, once again, that I probably cannot adequately express the tremendous appreciation I feel to this committee, the sense of gratitude that I have for both for the personal support and the support that you have given to the agency; and also my deep admiration for the men and women of the FAA, the inspectors, the controllers, and the support staff, who make hundreds of decisions on a daily basis that really affect the air traffic system of this country and I think make it the greatest in the world. It has been an honor to serve and really a pleasure to be here this morning before you. Thank you.

[The statement follows:]

#### PREPARED STATEMENT OF HON. JANE F. GARVEY

Chairman Murray, Senator Shelby, Members of the Subcommittee: Thank you for the opportunity to appear before you this morning to discuss the Federal Aviation Administration (FAA) and our budget request for fiscal year 2003.

Last year, I spoke with you about our sense of urgency about expanding the capacity of our nation's aviation system. At that time, we faced a crisis of congestion, delays, and too many aircraft for too few runways. Americans were frustrated with airline travel.

This year, those concerns pale in comparison with the challenges our nation now faces. Our current crisis is far graver—its impact on aviation far more acute.

This morning I want to discuss the significant developments and challenges that are before the FAA. We are working to ensure a successful transition of security operations and research to the Transportation Security Administration (TSA). We are continuing our efforts to provide a safe and efficient National Airspace System (NAS), and we must address the unfinished business from last year regarding ca-

capacity. While air traffic is still below the levels seen before September 11, we are beginning to see growth return to pre-September 11 levels. We must use this time to make needed investments in infrastructure.

To meet these critical objectives, the President's proposed fiscal year 2003 budget provides capital funding for the FAA consistent with the levels contained in the Aviation Investment and Reform Act for the 21st Century (AIR-21). Airport grants are funded at \$3.4 billion; capital modernization programs are funded at \$3.0 billion; and, FAA operations are funded at \$7.5 billion.

I appreciate the efforts that you and the members of this subcommittee have undertaken to fund the FAA's budget requests. Fully enacting the President's budget request will permit the FAA to respond and recover from the events of September 11, make necessary improvements in the NAS and at the FAA, and improve operational safety and efficiency throughout the entire commercial aviation system.

With the horrors of the September 11 attacks not far behind us, we must draw from the same courage that Americans have demonstrated during the last few months to proceed in this new era of aviation security, led by TSA.

At the outset, I would like to commend Congress for their bipartisan efforts that created the Aviation and Transportation Security Act (ATSA). ATSA authorizes TSA to perform security screening responsibilities that once belonged to air carriers and security oversight functions that until recently were performed by the FAA. TSA took over the screening of passengers and property and oversight responsibilities on February 17, 2002. We at the FAA are committed to maintain the highest level of dedication to aviation security through the transition of these functions to the TSA.

#### MAINTAINING OUR SAFETY RECORD

The United States has a remarkable safety record. We know that as strong as our safety record is, we can make it better. We also know that with the growing demand we must make it better. That is exactly what we are doing. I want to take a moment to discuss three important safety initiatives we currently have underway: our Safer Skies initiative, the Air Transportation Oversight System (ATOS), and our runway safety program.

Reducing the fatal accident rate for aviation is our primary goal at the FAA. To accomplish this goal, the FAA has joined in partnership with the aviation community to establish Safer Skies—a focused agenda to make the skies even safer.

What we do in aviation is "risk management." Risk must be identified, analyzed, evaluated, and controlled. It must be reduced with a disciplined and targeted approach. I am pleased to report to the subcommittee we are making clear progress.

Safer Skies consists of three teams with similar goals to improve aviation safety. The Commercial Aviation Safety Team (CAST), the General Aviation Joint Steering Committee (JSC), and the Partners in Cabin Safety (PICS).

- CAST is well on its way toward implementing safety interventions for commercial accidents. CAST has been implementing strategies to address Flight Into Terrain, Approach and Landing, and Uncontained Engine Failures. Government and industry CAST participants continue to develop intervention strategies for runway incursions, loss of control, and turbulence. Weather will be the next area for analysis.

- As part of Safer Skies, the General Aviation JSC aims to eliminate the equivalent of an entire year's worth of accidents by 2007. This committee is focusing on the two leading causes of general aviation accidents: Controlled Flight into Terrain and Weather. Intervention strategies differ from those being implemented for commercial aviation due to the unique general aviation operating environment. Other areas still to analyze include Loss of Control and Survivability.

- PICS was chartered to bring the passenger into the cabin safety equation by providing information to the public regarding cabin safety issues in the following areas: Passenger Seat Belt Discipline, Carry-on Baggage, and Passenger Interference with Crew Members. FAA has developed a Cabin Safety web site to provide guidance and educational material to the airlines and general public.

Another risk management tool used by the FAA is the way in which we inspect the nation's airlines. It is designed to identify safety trends in order to spot and correct problems at their root cause before an accident occurs.

The program, called the Air Transportation Oversight System (ATOS), is now in place for the nation's 10 largest airlines—which handle 95 percent of U.S. passengers—and will ultimately include all U.S. airlines.

FAA inspectors look at an airline as a whole, to see how the many elements of its operations—from aircraft to pilots to maintenance facilities to flight dispatch—interact to meet Federal standards. By collecting and analyzing data on the many

airline systems, FAA inspectors are better able to target areas for improvement. Congress, the General Accounting Office, the National Transportation Safety Board, and the airlines agree with our approach.

ATOS already has yielded benefits: It has enabled us to create a targeted, more effective surveillance plan. ATOS is a significant shift in the way we oversee airlines and in the way our inspectors operate. Our goals are to assure that safety standards are met and to get ahead of issues that could potentially lead to the next accident.

One of the most important FAA safety initiatives is our effort to reduce runway incursions. I am pleased to inform the subcommittee that both the actual number and the rate of runway incursions declined in 2001 from their 2000 level. While this is a positive step, much remains to be done to continue this trend.

The President's budget provides an increase of \$5 million to strengthen our runway safety program. These funds will be primarily used to implement site-specific solutions at airports that sustain the highest number of runway incursions.

Technological solutions are continuing to be implemented through the Airport Movement Area Safety System (AMASS) and the Airport Surface Detection Equipment (ASDE-X). The President's fiscal year 2003 budget request provides \$21.7 million for AMASS and \$87.8 million for ASDE-X. Twenty-seven of the 34 AMASS sites are scheduled for commissioning by September 30. Factory Acceptance Testing for ASDE-X is scheduled to be completed by August. We will continue to evaluate and assess low-cost technologies for potential deployment to non-ASDE and ASDE-X airports.

In addition, the FAA is continuing to work to enhance pilot and controller communication, provide additional training and education opportunities for pilots and airport vehicle operators, and improve operational procedures at our most congested airports.

#### PREPARING FOR GROWTH

Even with the events of September 11, we must plan for aviation growth.

Some priorities shifted after September 11, which caused the FAA to update the Operational Evolution Plan (OEP). Even with recent events, the OEP is fundamentally the same—a near 30 percent increase in capacity by 2010. The OEP is our plan to ensure that Government is doing everything that it can do; while at the same time have a comprehensive plan that lays out realistic expectations. These expectations are based on who has the ability to do what and when.

Let me highlight our progress on near-term OEP initiatives. These initiatives are the heart of the FAA's ability to manage the NAS and provide for future growth.

- Tactical, real-time approach to managing delays and demand around weather and other issues is now a year-round approach. It is standard operating procedure and how we do business. We are using this collaborative, tactical approach every day of the year. We are developing new tools and capabilities that better define airspace constraints and support corrective actions.
- Reduced separation (RNAV) "Area Navigation" routes in the Gulf of Mexico were successfully implemented last year, allowing for a greater flow of aircraft in this area. They have been a large success with estimated annual savings to operators of about \$22 million dollars. We are implementing RNAV routes around the nation and are on schedule to meet OEP milestones.
- We have made major progress on chokepoints. Ten new sectors opened last year. One sector opened this year at the Cleveland Center. Four radar positions opened at the Philadelphia and New York TRACONS in late December. We will finish the chokepoints initiative this June with four more enroute sectors in the Cleveland and New York Centers.
- We opened a new 10,000-foot runway at Detroit Metro on December 11. We have runways planned for completion in calendar year (CY) 2003 in Denver, Miami, Orlando and Houston. Minneapolis is under construction and scheduled for completion in CY 2004.
- We are accelerating the User Request Evaluation Tool (URET). This Free Flight Phase I tool allows for more direct routes, increased arrival capacities, and a more predictable flight experience for the passenger.

I am pleased to report that Kansas City, Cleveland, Memphis, Indianapolis, and Chicago Centers are now operational with URET. Atlanta and Washington Centers will rapidly follow in the URET schedule.

I visited the Kansas City and Cleveland Centers in late February. Controllers at both sites are pleased about this tool for its increased productivity, ability to allow time for controllers to focus on important tasks, as well as the conflict probe ability.

URET at Atlanta and Washington Centers will mark a very important milestone for us. Achieving operational capabilities at both Centers will complete the commit-

ment the FAA made with and to the aviation community 4 years ago to deliver on Free Flight Phase I. We did what we said we were going to do and when we promised. What was critical and essential to the success of Free Flight Phase I was holding the consensus, following the plan, communicating with the community, and the commitment by all to get this done.

#### A MORE BUSINESS-LIKE APPROACH

I also want to take this opportunity to update the subcommittee on our management efforts and reforms.

First, I want to inform the subcommittee that the FAA received an unqualified, or "clean," audit opinion on its fiscal year 2001 Consolidated Financial Statements, which shows how the agency is spending its funds. Improvements we have made in the property accounting system were the major step in achieving the improved rating. By receiving an unqualified opinion, Congress can be assured that the FAA's resources are appropriately accounted for and our financial condition is being accurately reported.

Second, the FAA is moving toward the creation of an Air Traffic Organization (ATO) and the hiring of a Chief Operating Officer (COO).

The ATO will be a performance based air traffic services organization. It will commit to clear objectives, specific measurable goals, customer service standards, and targets for improved performance. It is designed to make certain that our air traffic services, from acquisition to delivery to operation, are highly responsive to user needs and more accountable for performance. A Chief Operating Officer will lead the ATO.

In addition, the FAA is fully committed to finishing our cost and performance initiatives, which include cost accounting and labor distribution reporting (LDR). Our cost accounting system is well underway, currently tracking over 70 percent of our cost on a monthly basis. All FAA lines of business will have cost accounting in place by November of this year to coincide with the implementation of the FAA's new accounting system, DELPHI.

Our LDR initiative will improve the cost information provided to the cost accounting system and FAA managers to better understand our largest cost element—our labor. We are currently collecting labor data from six FAA organizations, and this activity will be implemented across the FAA by the end of this fiscal year.

In conclusion, I want to take a moment to once again thank Congress, and especially this subcommittee, for its support of the FAA. The President's fiscal year 2003 budget is the last budget that I present to this subcommittee as my 5-year term will end this coming August. I have enjoyed the working relationship that I have with you, Senator Murray, and the members of the subcommittee.

I would be pleased to answer any questions you may have.

Senator MURRAY. Thank you very much, Ms. Garvey.

We have been joined by Senator Stevens. Would you like to give an opening statement before we do our questions?

#### STATEMENT OF SENATOR TED STEVENS

Senator STEVENS. No. I just, Madam Chairman, dropped by because I know what Ms. Garvey just said is the case, and this is probably her last appearance, and I wanted to stop by and thank her for her consideration of so many issues that affect my State and aviation in general. You have done a wonderful job and really can take with you a legacy of not only understanding the system, but cooperating with Congress and with everyone concerned to improve our air traffic system and improve its safety. I think I just join all concerned, I think, in thanking you for so much that you have done, and particularly for your personal visits to Alaska. We will welcome you back without regard to where you are working, Jane.

Ms. GARVEY. Thank you very much.

Senator STEVENS. Thank you very much.

Ms. GARVEY. Thank you, Senator.

Senator MURRAY. Senator Kohl, would you like to make an opening statement before we turn to questions?

Senator KOHL. No. I do not have any questions.

Senator MURRAY. Very good.

#### SECURITY OF AIR TRAFFIC CONTROL FACILITIES

Ms. Garvey, as I mentioned in my opening statement following September 11, you were required to rapidly spend \$100 million to better secure your air traffic control facilities against terrorist attacks. And I understand that, separate from that \$100 million expense, you were required to absorb another \$100 million in unanticipated costs.

Do you have any continuing concerns regarding the adequacy of security around your air traffic control facilities?

Ms. GARVEY. Senator, I think that is an issue you always have to keep focused on. We are certainly working very closely with our air traffic controllers. We have done threat assessments. We are in close communication, obviously, with intelligence; with the FBI, in particular. So, it is something we are constantly looking at.

I think we have taken all the right steps, but I think as we move forward and we learn more, we will have to continue to look at that. I think in some cases, some of the steps we took immediately after September 11, we have been able to step back from, again working with the controllers. In some cases the armed guards are being replaced by fences. Those are the kinds of steps and those are the kinds of issues we continue to look at.

#### UNANTICIPATED OPERATIONS COSTS

Senator MURRAY. What other unanticipated expenditures have you experienced this year that resulted in that \$200 million shortfall?

Ms. GARVEY. Well, there are certainly issues around communication and some additional program issues that we had not anticipated. I continue to work and as the Deputy does, as well, with our Chief Information Officer (CIO), to continue to look at even some of the protection of the air traffic infrastructure; not just the facilities themselves, but also the air traffic control system itself. So, again, we have budgeted that. We found ways to cover it, but it will continue to be a concern as we move forward.

Senator MURRAY. What will be the impact of your plans to slow the hiring of new air traffic controllers and reduce the training expenditures for air traffic controller?

Ms. GARVEY. I think those are two areas that I am particularly disappointed in. Those are steps that you do not like to take. When we have the work that I talked about, choke points for example, just to give one illustration, we have opened a number of new sectors. That has meant some additional responsibilities for controllers. And they have taken that on and they have really done it very, very well; but clearly, it is an additional workload, in some cases. Wanting to make sure that we could provide the kind of staffing that we have wanted to, we have made a commitment to that. It is difficult to have to hold back for a while on that. That is not something you like to do as prepare for the future.

Certainly, training is another area that I have concerns about. We have got a lot of work going on to reduce and operational errors, and we are beginning to see a decrease in errors of about 4 percent. We are taking some right steps, but a cornerstone of that is additional training for the controllers, and I am particularly concerned that some of that training may have to be held back as we meet that shortfall.

Senator MURRAY. Will those slowdowns still be necessary if we provide the \$100 million supplemental that the Administration requested?

Ms. GARVEY. We will be able to reinstate all of those, or if not all, nearly all of those training programs and, again begin to hire. I think the key is, of course, when a supplemental is passed within the fiscal year.

#### IMPACT OF SHORTFALL ON SAFETY ISSUES

Senator MURRAY. Do you have any safety concerns, regarding your initiatives, to reduce the contract maintenance of air traffic control systems and service redundancy systems?

Ms. GARVEY. Madam Chairman, we have been very, very careful as we look at these issues that we are not affecting critical safety issues, and so clearly if we would not take those steps. One of the hallmarks of the American aviation system is the redundancies that we are able to build in.

So, while I think we can live without some of the redundancies, you certainly do not want to remove too many, nor do you want to see that in a longstanding way. So we have been very careful to protect the most critical ones. I think, again, that is the kind of issue we have to constantly evaluate and guard against.

#### FUNDING SOURCE FOR SUPPLEMENTAL REQUEST

Senator MURRAY. The Administration's budget request for the 2002 supplemental seeks language allowing you to divert funds from your investments in air traffic control systems in the Facilities and Equipment account, and the AIP account, to cover part of your operations shortfall. Why was it determined that FAA must eat its security expenditures out of its own hide, when the Administration is simultaneously requesting \$4.4 billion for new security requirements through the TSA?

Ms. GARVEY. Those are always difficult decisions. I think from the FAA's perspective, we put forward a request for \$100 million. We are certainly pleased that the Secretary's office, OMB, and the Administration supports and recognizes the needs we have. I know that the Secretary's office struggled and tried very hard to certainly stay within the spending line. And this really was the determination. But clearly the fact is the \$100 million is a recognized need. We are pleased with that.

Senator MURRAY. Is it fair to assume that that budget proposal did not originate in the FAA?

Ms. GARVEY. We put forward the request for \$100 million. That is, we did do that.

## SUMMER TRAFFIC AND OVERTIME COSTS

Senator MURRAY. Summer is going to be upon us very soon; actually today out here. But hopefully, hopefully the traffic spike that always accompanies the summer travel season will be, as well. Do you currently have enough money in your operations budget to cover the customary amount of overtime that you generally use during the summer travel season?

Ms. GARVEY. I think without the supplemental, that will be a concern as we move forward. We are going to have to watch that very carefully. I think you are absolutely right. We are starting to see that travel come back. We expect that this summer some of our busy hubs will once again be very busy, so it does put an additional strain on the Ops budget.

Certainly with the supplemental, we will work very hard with you all to make sure that that money is there, and the resources are there.

## USE OF AIP FOR SECURITY COSTS

Senator MURRAY. The Transportation Security Act allows airports to use AIP funds for security-related expenditures for 2002 only. Funding for this program, which totals \$3.3 billion in 2002, is primarily intended for investments, of course, in airport capacity and safety improvements. Can you shed any light on how much of the \$3.3 billion appropriated for 2002 is likely to be used for the cost of installing explosive detection systems?

Ms. GARVEY. Madam Chairman, as you indicated in your comments, some of this is still being discussed within the Administration. And let me answer it, if I could, in two ways.

One is, if you look historically at how much out of AIP went towards security, it was generally about 2 to 3 percent, if you look at the historical commitment. It was essentially for things like fences or access cards and so forth, very much within the guidelines. With Congress's help this year, much more flexibility was given to the airports, which I think they are very grateful for. The \$175 million that Congress appropriated, again, was a very big help.

We are right now, at the Secretary's request, pulling together all of the costs that have been incurred by the airports. We should be getting that this week. The very early estimates I saw was that it might be about 12 percent of the \$3.3 billion, but again we need to get a much clearer sense of that.

We are just getting those numbers. When we get that in, which, again, will be this week, we will be sitting down with TSA to really take a look at both the concerns that they have from a security point of view, and certainly working with the Secretary and the Deputy Secretary to make the policy determination.

Senator MURRAY. Will the airports be required, by the FAA or by TSA, to use a portion of their AIP entitlement funds to cover the cost of installing explosive detection systems?

Ms. GARVEY. At this point, that policy call has not yet been made. I think the first step was really to understand what the costs would be, to really understand the magnitude of the problem. I expect that determination will be made fairly quickly. I am hear-

ing, and I am sure you are as well, from airports that are concerned, as you indicated, with construction seasons and so forth; so I think there certainly is an urgency to this issue.

Senator MURRAY. What factors will determine how much of the AIP program will be diverted for the installation of these, and can you tell us when the Administration is making the decision?

Ms. GARVEY. I am sure that the Secretary will want to make this decision or come to grips with this very quickly. Our responsibility in the short term is to get these numbers to them. We said we would get it to them by the end of this week, and we will certainly do that.

I think one of the factors, certainly, will be understanding the magnitude of the problem: Are we really talking about something that is enormous in scope? Are we talking about something that if we take part of it from AIP, we could still make it work?

I think part of our responsibility will be to also present to both the Secretary and TSA an understanding of just what the capacity needs are out there. We have got a very good handle on that.

#### USE OF AIP FOR SECURITY EXPENDITURES

Senator MURRAY. Well, let me just ask you for your personal opinion on whether you think it would be wise for Congress, with the competing requirements between safety and security, whether we should change the law again and allow the AIP funds to be used for security expenditures instead of safety and capacity projects?

Ms. GARVEY. For the challenges that we are facing, and again I have not seen the final numbers, but I think for the challenges we are facing, more flexibility is probably something that I would certainly want to see considered. I would like to see that considered for a bit more time as we move forward. But, again, having said that the capacity issues are still very real as well. It is going to be a very tough balance, but this is an extraordinary time, and I think we are going to have to face some very, very tough issues.

Senator MURRAY. Thank you. Senator Shelby.

#### USE OF AIP FOR SECURITY COSTS

Senator SHELBY. Thank you. Ms. Garvey, I am concerned that TSA is not budgeting the cost of installing EDS machines at our airports and is reviewing the AIP solely as a funding source to implement security-related requirements, which according to the I.G. could exceed \$2 billion. Other estimates even run higher. Do you have any comments on that?

Ms. GARVEY. Senator, I think the points that you all made in your opening comments are exactly ones certainly that I share and I believe the Secretary does as well.

The capacity issues are very real; and while we do have certainly some very real issues around security, and looking for a little more flexibility may be appropriate for the next year or so, we still cannot lose sight of the capacity issues. Somehow finding a balance, it may be a little bit more on security than we have ever had before, is going to be very important.

## EN ROUTE AUTOMATION MODERNIZATION PROGRAM

Senator SHELBY. The FAA's en route automation modernization program, what do you call it? ERAM? It is critical to keeping the national air space system operating and meeting the anticipated demand for air travel. This acquisition program, as you well know, is in the early stages, but already there is concern that this software-intensive effort has the potential for significant cost growth and schedule delay. It is a high-risk program, and costs could easily reach \$1.5 billion, we have been told.

What is your strategy for moving forward and ensuring competition here? And what will be the criteria for selecting the prime contractor?

Ms. GARVEY. Well, as you may remember, Senator, we did at one point move forward on a sole source, but it was challenged and we are in a competitive process right now.

Senator SHELBY. Real competition is good, if it is real competition.

Ms. GARVEY. Yes. Yes. I agree with you, Senator. There has been a protest that was filed. However, the two firms that are involved are engaged in mediation, and those talks are literally underway now. Some were held last week, additional talks, I believe, are being held this week. So I am hopeful that the mediation process will result in something that allows us to move ahead so that competition is protected but still we are able to move ahead. I think that is critical and important.

## ENVIRONMENTAL STREAMLINING

Senator SHELBY. Has the FAA basically slipped environmental streamlining to the back burner?

Ms. GARVEY. Actually, the answer to that is no. Although I will tell you that I probably personally have not focused on it as much as I did last year, I am delighted to say that we have got a pretty dedicated staff that—

Senator SHELBY. I think you have focused on security in the last few months, which is great.

Ms. GARVEY. That is right. That is right. Thank you. But the airports office, Lynn Pickard, who actually works on this very carefully and has worked long and hard on it, had to continue discussions with the President's Council on Environmental Quality (CEQ) and came up with a whole series of categorical exemptions that could be included. And CEQ has been very helpful. We have a lot of work underway there, work with CEQ. And I think that has been helpful. The dedicated teams that we have had in place for particular airports have continued with their work; and, again, it is not shortchanging the environment, but actually streamlining it to some degree. Finally, we have asked for some additional lawyers in our budget for next year, who will help us with the environmental work.

Senator SHELBY. To move the process.

Ms. GARVEY. To move the process. The legal issues, sometimes, are the most troublesome as you move forward.

## TIME TO CONSTRUCT RUNWAYS

Senator SHELBY. Does it have to take approximately 12 years to build runways, something like that?

Ms. GARVEY. In some cases—

Senator SHELBY. The total process.

Ms. GARVEY. In some cases, that is correct. And certainly if you begin from the very early stage of when the local decisions are debated through, even before it gets to the Federal level, that is absolutely true.

I think the area where we still need to work, and one area that I suggest for another administrator, is coordination at the Federal level among all the Federal agencies. In some cases, I think we could probably do more work in that area.

Senator SHELBY. But if you are going to increase capacity and it takes 12 years, you are going to have further delays here and there; are you not?

Ms. GARVEY. That is exactly why the dedicated teams, those teams that we put in place, particularly for some of those runways where it affects the system, where there is a rippling effect.

## COST CONTROL

Senator SHELBY. What steps has the FAA taken under your leadership to ensure that current costs and schedule parameters will be maintained? We are all interested in costs. You know, this is an appropriations committee.

Ms. GARVEY. Absolutely, Senator. As you should be. And I certainly understand that.

First of all, I think the cost accounting really has been and will continue to be a terrific tool for the FAA. Having a cost accounting system in place where you can really drill down and understand what your costs are and you can compare why is it more expensive, for example, for communication lines to be running in Chicago than it is in Atlanta, so that you can really drill it down facility by facility and being able to look at your costs. That is one way we can really control costs.

If you look at some contracts that we have put in place, we have included a fixed cost. Sometimes that works, sometimes it does not. But in the cases where it does work, I think it has the potential to save some money. We have included in some cases some incentives for contractors to finish earlier, which in the long run saves us money.

Senator SHELBY. It works, does it not?

Ms. GARVEY. It does work, absolutely. There are a number of steps we have put in place, both internally and with our own contractors. Again, more needs to be done, but we have made some enormous progress in that area.

## TECHNOLOGY FOR OCEANIC AIR TRAFFIC CONTROL

Senator SHELBY. The Inspector General recently weighed in on the FAA's latest effort, that is advanced technologies in oceanic procedures, expressing a concern that the software development continues to be a major risk.

What are you doing in that area to maintain the costs?

Ms. GARVEY. Senator, the Inspector General talked about the FAA taking a very close look and monitoring that very carefully. We are doing that. We have a very aggressive and a very good program manager in that particular program who is doing exactly that. That contract has a fixed cost associated with it, so there is a real incentive for the contractor to stay within certain parameters. We are very much on top of that particular contract.

WIDE AREA AUGMENTATION SYSTEM (WAAS) AND ASR-11

Senator SHELBY. A couple of other things as I sum up here. What about the WAAS signal? Where are we there, and where are we going, you know? I have expressed my reservations about the cost growth here, and the reduced capability of the program.

The second thing I would like for you to touch on is the Air Force has certified the ASR-11 radar. The FAA is still testing it. I have been told that the FAA will make a decision to certify the radar on or about the 1st of May, which is a couple of weeks away. Can you give us any sense of how these tests are going?

Ms. GARVEY. Let me start with the ASR-11, and then I will go to WAAS. There have been some concerns raised about how well the ASR-11 will perform in an operational setting.

Senator SHELBY. Yes.

Ms. GARVEY. We did some developmental work and testing in the last couple of months, and I have not seen the final results. It was actually finished, I believe, at the beginning of April. My understanding is the results were pretty positive, that they were overall good. We now move into more of an operational testing with the controllers. I do not want to prejudge that, but it sounds like this is heading in the right direction. We have to look at that analysis more carefully, but at least the reports that I have gotten have been promising.

On WAAS, we have made some terrific progress in the last 6 months. About a month ago, we had a pretty significant breakthrough that was reported, I believe, at least in The Washington Post. It may have been reported more widely than that. In some of the developmental work that we were doing, we had a breakthrough that was going to allow us to use the precision approaches in about 5,000 small and mid-sized airports. That was very, very good news.

Some of the concerns that we had a year ago and that the contractor had as well have been surmounted. We believe this breakthrough of about a month ago, will save about 2 years of developmental work. And that will, in turn, of course, save some money. We are still focused on the integrity, the safety integrity piece, but the progress is moving in that area. I see no difficulty in meeting that commissioning date of December, 2003.

Senator SHELBY. Thank you, Madam Chairman.

Senator MURRAY. Thank you, Senator Shelby. We will go back and forth, from side to side, so I will turn to Senator Kohl next after him.

Senator KOHL. Thank you, Madam Chairman. And, Administrator Garvey, welcome.

Ms. GARVEY. Thank you, Senator.

## SECURITY FOR CHARTERED AIRCRAFT

Senator KOHL. The Transportation Security Act includes a provision to strengthen security requirements for chartered aircraft. The new security program for chartered aircraft larger than 18 seats is being developed at the Transportation Security Administration. However, major gaps in the security system still exist. It is a fact that today, even with all of the progress we have made when it comes to security for commercial airline travel, an individual can still charter a 747 and bring his friends on board without any screening of those individuals or their luggage. They could just walk on the plane and use it as a weapon similar to what occurred on September 11.

What assurances can you give us that another terrorist attack will not come from a charter jet? If passengers and their luggage for these charter jets are not prescreened, as they are not, then how can we be assured that another large jet will not be hijacked and used as a weapon?

Ms. GARVEY. Senator, and I know this has been a real issue, both for you, and I would say, several members of Congress have raised this as an issue as well. And I know it is one that TSA is very, very focused on. I know in speaking with Under Secretary Magaw, they are focused on so many issues within the legislation of trying to meet the deadlines and so forth, but this issue of chartered aircraft is one that I know they are very focused on. And I will certainly bring that message to him of your concern around this issue.

Senator KOHL. Well, let me—

Ms. GARVEY. But these will have to be worked through with the Under Secretary.

Senator KOHL. And I appreciate that, I know how much how much you are genuinely concerned, but passing it on to TSA and suggesting that they are working on it, and they will come up with something as soon as possible is, somehow, something I would like to hope that we could get beyond here today.

I mean, I asked just a simple question. And until they come up with a better procedure, why should we not have a system instituted immediately that would at least require that passengers getting on chartered aircraft are wanded down?

Ms. GARVEY. Yes.

Senator KOHL. You know, with the thing that they do when you go to an airport? Sometimes they just have these hand-held devices that they wand people, and at least hand-check their baggage. I mean, I do not understand the bureaucracy that is involved; that could be done today. And I would like to hope or suggest to you that you have a conversation with Mr. Magaw, who I know and is a very fine person, and at least respond to that request that we are making. Because it is now, you know, 6 months or 7 months since September 11.

Ms. GARVEY. Yes.

Senator KOHL. And really, chartered aircraft have no more security, large chartered aircraft have no more security today than they had before September 11, which was and is none. Is that a reasonable request?

Ms. GARVEY. Oh, absolutely, Senator. And I will do that.

Senator KOHL. Could I hope that within the next day or two, you and I could have a telephone conversation and——

Ms. GARVEY. Absolutely, yes, Senator.

Senator KOHL. I think that would be great.

Ms. GARVEY. Thank you.

#### FLIGHT 587 ACCIDENT

Senator KOHL. I think that would be very significant.

One other comment I would like to make to you. On November of 2001, New York City, still reeling from the September 11 attacks, as you know, suffered another blow with the crash of Flight 587. And while the investigation results are not yet conclusive, many people believe that this tragedy may have been prevented with technology that exists today and continues to be developed. Under FAA regulations, aircraft inspections are often spaced, as you know, too infrequently. And they allow airlines to design for cost savings, oftentimes over safety.

In addition to insufficient procedures for the inspection of composite components within aircraft, it is quite possible that the people who died on Flight 587 died as the result of failure of the aircraft's composite tail fins. It is my understanding that current technologies are being developed that could have very possibly prevented such a failure, as well as several other close calls that we have had.

One such technology is the idea of a Structural Health Monitoring system called SHM. SHM systems would be implemented in an aircraft to continuously monitor the critical structural components using surface penetrating methods. This would enable the operator to discover damage that could potentially lead to failure, damage that may have been overlooked between scheduled intervals.

Is the FAA doing anything, or what is the FAA doing to encourage research in this area to prevent similar failures in the future?

Ms. GARVEY. Senator, I can certainly tell you that we are doing a great deal of research on both composites and a whole host of issues, again, with a lot of help from this Committee, from wiring to flammable materials, et cetera. So, if you get an opportunity to ever visit the Technical Center in Atlantic City, it is really quite extraordinary. I think it is about the best in the world, with the technologies that are being explored.

I am not particularly familiar with this technology that you have mentioned, but I certainly will find out about it, and will be able to talk with you about it when we talk over the next couple of days. I will certainly find out about it.

Just one note, though, about that particular accident.

#### NATIONAL TRANSPORTATION SAFETY BOARD

We are working hand-in-glove with the National Transportation Safety Board (NTSB). I have talked with the chairwoman several times. We have done some additional inspections of the tail to make sure that we are not seeing difficulties in other aircraft as well. So, there is a tremendous amount of discussion and work going on at the technical level, all the way up the line between the NTSB and the FAA, and we are very focused on it together. While

we do not know yet what the cause is, I think people are working very hard and taking all the appropriate steps. But I will find out about this technology in particular, and it may be that some folks at the Tech Center are already working on it. I will find out about it.

Senator KOHL. All right. Thank you very much. I thank you, Madam Chairman.

Senator MURRAY. Thank you, Senator Kohl. Thank you, Senator Campbell, for your patience. You have been here since the beginning of the hearing. I appreciate it.

#### FIXED BASED OPERATIONS (FBOS)

Senator CAMPBELL. Thank you, Madam Chairman. I have about a half dozen questions. Unfortunately, I have got a 11:30 conflict, so I would like to submit those in writing, if I could, and just make a couple of comments before I have to run. One was related to what Senator Kohl was mentioning about private aircraft. In my other life, I am an instrument-rated pilot, and I used to fly a lot. And I can tell you that the biggest weakness in our whole safety link is in the Fixed Based Operations (FBOs). Not that there is anything wrong with the Fixed Based Operations (FBOs), but literally anybody can go out on a flight line to get on a private plane.

And some of them have huge lifting capabilities, as you might guess. There are some pretty big private aircraft out there, with almost no consideration of security at all, that I can see, in a lot of the smaller communities.

In addition to that, most of those private planes, some big ones, they buy their fuel from the FBOs. And the trucks are parked right there. They fill them and they park them right beside the hangars where they are fueling, sometimes with thousands of gallons on board and on those trucks too, which seemed to me that is another really weak place, too.

And I do not know what the FAA is doing about it, but I know I just live a few miles from one where I used to fly out a lot. And it just seems to me there is a real need there in dealing with private aircraft, too.

#### CERTIFICATION OF ASR-11

A second point: Senator Shelby mentioned the ASR-11. I know that Senator Stevens and Senator Murray both have some airports that we are waiting for that ASR-11, as I did in Eagle County. Colorado has been waiting a number of years for an upgraded instrument landing system. And it was mentioned that that ASR-11 has been certified by the Air Force, but not by the FAA. As I understood you to say it, it is kind of on the way. You are, it is pretty close now; is that correct?

Ms. GARVEY. We are working on that, and I need to double-check on the Air Force.

Senator CAMPBELL. All right.

Ms. GARVEY. I am not sure that they have actually; I think we are doing it together.

[The information follows:]

The Air Force is currently in the testing phase and expects to certify the ASR-11 in the August-September 2002 time frame.

Senator CAMPBELL. Well, I just mention that, because Eagle County is used by the Air Force regularly. They have a helicopter training unit there, and they use it as one of the flight training places in their system, too. It seems to me if it is good enough for the Air Force, it ought to be good enough for civilian traffic, too.

#### SCHEDULED PASSENGER SERVICE AT CENTENNIAL AIRPORT

And lastly, Madam Chairman, in 1996, Congress amended the national aviation statutes to improve local control over community airfields. That mandate means that small aircraft and small airports, such as Centennial which is south of Denver, could not be forced to handle airline service of 30 or more passenger seats. That was 1996, before you even took your present position. But it is my understanding after 6 years, the FAA still has not written the rules to implement the law. So Centennial Airport, and I imagine a lot of other ones like it, has lost more than \$7 million in Federal funding since 1998 alone for not complying with these now outdated rules that call for an accepted schedule passenger service.

I mentioned this to you before we had our meeting and Administrator Garvey has agreed to come to Colorado to meet with officials of Centennial Airport about this particular question; but I did want to also put that on the record that it is a big concern to us in Colorado. And I apologize for having to run, and I will submit my questions in writing. Thank you.

Ms. GARVEY. We will just have to do that before August, Senator.

Senator CAMPBELL. How about next week? We will. We will do it before August.

Ms. GARVEY. Thank you.

Senator CAMPBELL. Thank you. Thank you, Madam Chairman.

Senator MURRAY. Thank you, Senator Campbell.

#### VIOLATION OF RESTRICTED AIRSPACE

On April 1st, a Frontier Airlines aircraft violated restricted air space by flying over the White House, the Washington Monument, and the National Observatory. And earlier in the day, that same crew was diverted to Dulles after failing to produce the password necessary to land at Reagan National Airport. Given all the restrictions that are in place around the air space around Washington, how is it possible that this crew could so blatantly violate them?

Ms. GARVEY. Senator, I could not agree more, that just should not have happened. And as you may know, Madam Chairman, the crew was grounded and retrained. We have had extensive discussions with Frontier about some additional training, so I do not expect that will happen again. We have taken the steps necessary, and quite frankly, I do not think it should have happened even the first time.

Senator MURRAY. What can you tell us about the frequency of these kinds of violations?

Ms. GARVEY. I would like to get more accurate numbers for the record. I think we have certainly had some incidents, though I do not want to suggest that it is widespread. Every time we do have an incident, there is either retraining or an appropriate action taken. Sometimes it is a very minor matter of moving into the re-

stricted areas, and other times it is something that we believe is more serious, more blatant.

Senator MURRAY. Do you think it is common, a common problem for crews not to know these rules?

Ms. GARVEY. I would not say it is a common problem, but I would like to get you, if I could for the record, a more exact number.

[The information follows:]

The number of airspace violations concerning Prohibited Area 56 (P-56) is not a common occurrence. Below is the total number of operations at Reagan National Airport (DCA) and the number of airspace violations for P56 from 1998 to present:

| Year                    | Number of operations | Number of violations |
|-------------------------|----------------------|----------------------|
| 1998 .....              | 313,938              | 24                   |
| 1999 .....              | 334,768              | 20                   |
| 2000 .....              | 342,790              | 17                   |
| 2001 .....              | 270,145              | 14                   |
| 2002 <sup>1</sup> ..... | 47,602               | 4                    |

<sup>1</sup> Current data as of May 10, 2002.

#### AIR TRANSPORTATION OVERSIGHT SYSTEM (ATOS)

Senator MURRAY. Last week, the Inspector General released his report on the Air Transportation Oversight System, ATOS. The report applauded the goals of ATOS, which is to identify systemic safety risks in air carrier operations, utilizing data that is collected by your inspector work force.

However, the report points out a number of areas where ATOS has fallen woefully short. For example, the I.G.'s report stated that your inspectors are not adequately trained, your data analysis is lacking, and you need to do a better job of following up when deficiencies are identified.

How difficult has it been to get inspectors to shift from the traditional methods of inspections to using ATOS?

Ms. GARVEY. Madam Chairman, I do not think it is ever easy when you are talking about really a cultural shift in an agency, and you are changing from one system that people have grown up with professionally to another. It is always a challenging observation, but I would make two comments.

One is that the recommendations that the I.G. came out with were exactly what our own inspectors told us, as well. So there is no argument with the recommendations that were made. And, in fact, even in the midst of the I.G. report, which was about a year and a half ago, we had begun to implement those recommendations. The data is now integrated. We have the analysts on board to do it. We are in the process of retraining our inspectors under a program that the inspectors designed with us.

That will be completed by the end of this year, but I think that is going to be a constant issue for us, because it really is changing the way we are doing business. But what I am encouraged by, the comments from the inspectors and from the I.G. are consistent, and from our own managers, in saying this is the approach we should be taking, this is the direction we should be going. That part is the most encouraging.

Senator MURRAY. ATOS currently only covers 10 air carriers. When do you expect the rest to be covered?

Ms. GARVEY. We are in transition right now. We are beginning to work with the other carriers. I had a long conversation with the Inspector General about this last week, on the one hand, you want to push ahead and on the other you want to make sure that you have got the program solidly grounded. So we are moving ahead to the other airlines, but also being mindful of the fact that we still have some work to do even with the fundamental program that we have. We are in a transition to the new program with the other carriers, that is, beginning to discuss with them both what the safety systems need to look like, what kind of training they need to begin preparing for. So we have begun those conversations already. I would like to get back to you with a time line on that.

Senator MURRAY. All right.

Ms. GARVEY. I want to factor in some of the Inspector General's comments as well.

[The information follows:]

It is important to note that currently the non-ATOS air carriers are in a transition program called the Surveillance and Evaluation Program that introduces system safety and ATOS tools in a phased-in, systematic, modular process. Flight Standards plans to have all of the remaining 14 CFR 121 air carriers (approximately 140 air carriers) phased-in under the ATOS system by September 30, 2004.

#### HIRING OF SAFETY STAFFING

Senator MURRAY. Very good. Ms. Garvey, this subcommittee provided a total of \$15.8 million over and above your requests last year to increase the number of safety inspectors and aircraft certification personnel. Specifically, the purpose of these funds was to get the inspector work force up to the level that was identified as necessary in the 90-day review study that followed the Valu-Jet crash. What progress has been made in getting these new inspectors on board and how many of them have you brought on board to date?

Ms. GARVEY. The progress to date, is slower than I would have liked. September 11, really has thrown a number of issues off. But in fact, talking with our AVR staff yesterday, the numbers will be on board by the end of the year. So we will meet that commitment. We are grateful for that support. We recognize the necessity of having those inspectors in place, so we will have it completed by the end of the year, but it is a little slower than I would like.

Senator MURRAY. Can you assure us that these positions will not be delayed as a result of the shortfall in your operations budget?

Ms. GARVEY. We are committed to getting those done, absolutely, because of the safety implications.

Senator MURRAY. Given the training deficiencies that the I.G. identified, can you assure us that these new inspectors will be fully trained for their responsibilities?

Ms. GARVEY. Madam Chairman, they will be fully trained; and again, the program that we have restructured with the help of our inspectors will be the basis of that training.

Senator MURRAY. Does your fiscal year 2003 budget continue the funding for these new positions?

Ms. GARVEY. I would have to go back and look at that.

Yes, it does. I am sorry.

Senator MURRAY. Can you give me a schedule for filling those?

Ms. GARVEY. Yes, we will.

[The information follows:]

The funding added by Congress was to restore staffing levels in Regulation and Certification to the fiscal year 1998 levels. In order to reach the fiscal year 2002 staffing level of 3,327, the monthly hiring schedule, which covers new positions and backfilling for attrition, is:

|                 |      |
|-----------------|------|
| April .....     | + 3  |
| May .....       | + 18 |
| June .....      | + 31 |
| July .....      | + 36 |
| August .....    | + 32 |
| September ..... | + 13 |
| Total .....     | 133  |

#### FAA ASSISTANCE TO AIRLINES WITH FINANCIAL DIFFICULTY

Senator MURRAY. The experience of Eastern Airlines taught us that airlines in financial difficulty are sometimes tempted to cut corners when it comes to necessary maintenance and complying with safety regulations. Given the fact that we have a great many airlines in financial difficulty, many more than we had a year ago, should your inspection systems be better targeted on the carriers that are struggling?

Ms. GARVEY. Absolutely, that is an issue that we do inherently focus on. In other words, if an airline is in trouble, either financially or is having union difficulties, our inspectors will spend a little bit more time with those particular carriers. And that is certainly the case; that is the case now.

I also think that some of the voluntary disclosure programs, both the Aviation Safety Action Plan (ASAP) and the Flight Operations Quality Assurance (FOQA) program, which again we got a lot of support from Congress on, is also helpful, because we often hear from some of the people within those airlines when they think there are difficulties or areas that we need to focus on. So, we are paying particular attention to that, but you are absolutely right. Focusing and encouraging our inspectors to spend more time with carriers that may be experiencing some difficulty is important.

Senator MURRAY. Okay. Have you seen any evidence that there are any air carriers that are cutting corners right now?

Ms. GARVEY. I have not, Madam Chairman. I have not seen any evidence of that. And I will ask again when I get back today. But I have not seen any evidence. It is clearly an issue that our inspectors are aware of and are focused on.

[The information follows:]

The FAA has established procedures to work with air carriers experiencing problems. During these conditions, the FAA may initiate additional surveillance to ensure that the carrier is continuing to operate safely. The Certificate Holding District Offices (CHDO's), in coordination with their regional offices, develop and execute surveillance plans to provide additional oversight of key air carrier functions. Such plans could provide for increasing the number and type of inspections performed on the air carrier's training and maintenance programs, increasing the number on en route inspections performed by inspectors and increasing surveillance by geographic inspectors. As surveillance and inspections are conducted weekly reporting is analyzed in order to retarget inspections as appropriate. Specific guidance for these processes is provided in inspector handbooks (FAA Order 8400.10—Operations: FAA Order 8300.10—Airworthiness).

## STANDARD TERMINAL AUTOMATION REPLACEMENT SYSTEM (STARS)

Senator MURRAY. Okay. Ever since the multi-billion dollar debacle known as the AAS program was terminated, your air traffic control facilities have been waiting for long overdue technology upgrades. One of those upgrades, the STARS system, is finally nearing the stage of being deployed in air traffic control towers around the country several years later than originally anticipated. But despite assurance of improved cost controls from some of your managers, you are now proposing to reprogram almost \$38 million from other FAA procurements in order to keep your installation schedule for this year. Given the program's history so far, why should we be confident that the program will continue to stay on schedule?

Ms. GARVEY. Madam Chairman, we have not missed a deadline on STARS in the last year and a half. And I think that the difficulties that we experienced in the early days are behind us.

The date that we are all very focused on is November, which is Philadelphia. We are going to make that. In fact, I intend to come back for that. I have told the Inspector General that I will come back to that ribbon-cutting with him, as well.

Senator MURRAY. Why do we have a \$38 million cost overrun?

Ms. GARVEY. The \$38 million, which is the reprogramming that we have discussed a little bit with the staff is due to a couple of factors. One is there was more site preparation with some of the sites. There were more site difficulties. We also accelerated Philadelphia, which was not our intent when we first put the program together, but because of compelling issues, we have accelerated Philadelphia, so there is money associated with that, as well. Those are the really two principal reasons for the cost increases. November is it. We went to early display configuration earlier than expected in both Memphis and in Bradley; much earlier, 6 weeks earlier in one case. So I expect we will meet that date of November.

Senator MURRAY. Well, I appreciate the optimism. But since STARS is dependent on the ASR-11 digital radar, which has its own technical problems, do you have any contingency plans in case we have any further delays?

Ms. GARVEY. Right. We do, Madam Chairman. First of all, I am encouraged by the testing that was done in March that really indicates it looks pretty good. There may be, and again, I do not want to be overly optimistic on the ASR-11. But in any case, ASR-11 becomes an issue, in about 2005 in terms of the STARS waterfall. There are contingency plans that are being developed if the ASR-11 proves not to work out. But we do have contingency plans that are in place. And, again, that would impact the waterfall towards the end, not in the beginning.

Senator MURRAY. Thank you very much.

Senator Durbin.

## BALANCING SAFETY AND SECURITY

Senator DURBIN. Thanks, Madam Chairman. Administrator Garvey, thank you for being here today and thank you for your service.

Ms. GARVEY. Thank you, Senator.

Senator DURBIN. You have faced extraordinary challenges, not to mention September 11 and all of the other things attendant to it,

and you have met each of those challenges so well. I really am glad to count you as a friend.

Ms. GARVEY. Thank you.

Senator DURBIN. And I am happy to have worked with you over the 5 years that you served as Administrator under two different presidents.

I would like to ask you, before I go into a specific question which you can probably anticipate, I would like to ask you if you would reflect on a couple of things for this Committee and those who are following this hearing. I would like to divide it into safety and security. Safety being the ordinary operations of our aircraft across America, Security addressing the issues that have been raised since September 11.

As you are about to move on and reflect on what you have learned and try to look ahead, what would you say to us in Congress? What are the things that we should be mindful of when it comes to challenges to maintain and improve the safety of our air service? If there are one or two things that you think we might overlook, and we should not?

Ms. GARVEY. To some degree, I think some of the discussion a little bit earlier points to one of the challenges: how can we provide for the greatest levels of security without sacrificing and without losing sight of some of the very critical safety programs? So I think, for Congress and for the Administration, the enormous challenge of providing the right kind of balance, which means being strategic and tactical to some degree in resource dedication.

It will mean for TSA and for Congress and for the Administration choosing the right technologies. You cannot do all the technologies, but what are the right technologies that will give us the kind of seamless system that we need. So, I think finding that right balance between some of the security priorities as well as some of the very, very critical safety priorities.

#### DECISIONS ON TECHNOLOGY

Senator DURBIN. But you think it comes down to technology. That really is most important?

Ms. GARVEY. I think that is going to be certainly a key for TSA. And is it bio-metrics, is it EDS machines, is it, you know, better access for employees, access codes and so forth? I think that is really where the challenge is going to be. What are the right strategic and tactical decisions around technology? Because you simply cannot do it all, and how do you sort through that?

Senator DURBIN. There is so much linkage here. I just left a hearing that I chaired upstairs on the integrity of drivers' licenses and State I.D. cards, which is a State issue. We have some legislation we are considering, which would try to establish some national standards, but issued by States.

That is the key to entry into airports, into our economy, and there is such linkage. If that is not done well, if identification is falsified at the start, then all of the other precautions that follow are meaningless.

So, there is such linkage there. And I think that would apply, certainly, to the security side of it.

## PENDING LEGISLATION ON CHICAGO'S O'HARE AIRPORT

About 5 or 6 years ago, someone from the FAA anonymously, in a Newsweek article, said that the greatest single thing that could be done to improve aviation across America is to do something about O'Hare.

That was said anonymously. And it might have been before you came on board, but we are trying to focus on that now. I thank you and the FAA for at least working with us every step of the way to review what we have been doing, a historic agreement between our Governor and the Mayor of the City of Chicago, trying to finally take 40-year old runways and make them more modern and safer.

I do not know if you have personally seen it, but your staff has been reviewing the legislation. I want to ask you to comment on specifics. Let me ask this question: Have you seen anything in the proposals that have been brought to the FAA, which suggests that there would be any circumventing of the authority of the FAA to make the final decisions on safety and the environment and all of your other responsibilities under law?

Ms. GARVEY. Senator, I have not seen the final language yet, but I understand our staffs are working very closely, and they have not brought anything to my attention that would give me that kind of concern. I know there were issues in the beginning, but I think we worked very well together. I continue to think of what you all in Chicago and Illinois were able to accomplish as a model for all of us, because it was extraordinarily difficult and with very strong feelings on both sides, but with a lot of help from Members of Congress, the issue was finally brokered. And that was very important. I am going to be talking in one of my favorite States later this week, and it is certainly a good model.

Senator DURBIN. Well, thank you. And I might add that we were happy to receive, just a day or so ago, the Airline Pilots Association endorsement of this legislation, as well.

Ms. GARVEY. Great.

Senator DURBIN. Administrator Garvey, thank you for your service to our country and to the FAA, and wish you the very best and hope we can work together in the future.

Ms. GARVEY. Thank you. Thank you very much, Senator.

Senator DURBIN. Thank you, Madam Chair.

Senator MURRAY. Thank you, Senator Durbin.

Senator Bennett.

## REMARKS BY SENATOR BENNETT

Senator BENNETT. Thank you very much. Administrator Garvey, I join with my colleagues in thanking you for your service. You are getting close to the end of your 5-year appointment and, as you know, I have some personal experience with FAA administrators, having served in the Department and it is not the easiest assignment in the Department.

As a matter of fact, it has become the graveyard of a number of careers. And the fact that you have handled yourself with such competence and such aplomb through this 5-year period that you have served two presidents of two different parties with equal dili-

gence, you deserve our congratulations and our thanks and our best wishes for whatever it is you decide to do.

Ms. GARVEY. Thank you, Senator.

Senator BENNETT. I think rather than being the graveyard of a career, I am hoping this will be a launching pad for you for wherever you go on to.

Ms. GARVEY. Thank you very much.

#### FAA'S PERFORMANCE AT THE OLYMPICS

Senator BENNETT. I also want to thank you for the FAA's superb performance during the Olympics. The Olympics, it is hard for us to remember now, but a time of some concern prior, where after September 11 there were some serious voices raised that they should be cancelled, that we would not be able to keep them safe. If we did keep them safe, we could not keep them accessible. If we cracked down on security, nobody would come. Everybody would be afraid, so on. And the challenges of getting hundreds of thousands of people in and out of Salt Lake City on a continual churning basis with the appropriate concerns for security were enormous. And the FAA rose to those challenges and handled them extremely well. And we are very grateful to you for that.

#### ST. GEORGE REGIONAL AIRPORT

While I am expressing gratitude, I want to thank you also for your efforts and concerns with the development of a new regional airport in St. George. St. George, Utah, is one of the fastest growing parts of the State. Its growth is hampered only by the fact that its airport cannot handle jets above a certain size. And you cannot extend the runway, because it is on the edge of a cliff. And you are going to have to put a whole new airport down in the valley, where you have got enough space for a modern runway.

And we are grateful to the FAA for working with us on that, which leads me to my suggestion. I understand Senator Campbell has asked you to come to Colorado, and while you are there, if you could slip down to St. George and take a look at that, we would welcome you there and appreciate whatever attention you could give to that.

Ms. GARVEY. It sounds like a wonderful trip.

Senator BENNETT. Well, I will warn you that you better do it sooner rather than later, because St. George gets to 110/115 degrees in the summertime. Its growth is significantly larger in the wintertime. Somebody refers to St. George as Utah's Palm Springs.

Ms. GARVEY. Yes.

#### RADAR FOR SALT LAKE CITY

Senator BENNETT. And the population grows by tens of thousands every winter.

Let us go back to the Olympics just very briefly and a subject that we have discussed before. That is radar coverage for the Salt Lake Airport, particularly with airplanes coming from the south. During the Olympics, there was a temporary radar system installed, and we continue to be anxious to see to it that becomes somehow, because the growth in the area is only going to continue.

It is a major hub for Delta Airlines. And with the growth along the Wasatch front, the population of Utah will double within the next 30 to 40 years.

We understand that ASR-9 radar units are no longer available and that ASR-11s continue to be hampered by technology problems, so we have been approached by the manufacturer of what he hopes will be an ASR-12 and wonder if we can get in conversations with you and finally get this somewhat difficult problem resolved. As I say, it worked very well in the Olympics to have that additional radar down there.

Ms. GARVEY. Yes.

Senator BENNETT. It was installed as temporary. I told them to pour as much concrete as they possibly could around it, so that it could never get taken away, but that is maybe not good public policy.

I simply raise it with you in the hope that we can have continuing conversations with your agency about getting that problem under some control.

Ms. GARVEY. We certainly will, Senator. And we will follow up at the staff level to make sure we continue those discussions.

Senator BENNETT. Thank you again.

Ms. GARVEY. Thank you. Thank you very much for your kind comments.

Senator BENNETT. My congratulations are very sincere and heartfelt, because of my own experience with how difficult a challenge you really had in these last 5 years.

Ms. GARVEY. Thank you. Thanks, Senator.

Senator MURRAY. Thank you, Senator Bennett.

#### COMMERCIAL AIRPLANE CERTIFICATION PROCESS

Last month, the FAA released the results of a study that focused on the commercial airplane certification process. One of the major findings of this study is that the FAA airlines and aircraft manufacturers have not adequately communicated important safety information within and among their organizations.

What are you doing both in the short term and the long term to correct that situation?

Ms. GARVEY. Senator, that was, I thought, a very good report, and good steps, both from the FAA and the manufacturers, to really sit down and say, "Look, what can we do better in this particular area?"

Quite honestly, we saw some difficulties within our own shop. We did not feel our own Certification side of the house was speaking as much to the Flight Standard, sharing information in a timely way. So we started there. That is really our first emphasis.

Nick Sabatini, as the Associate Administrator for Regulation and Certification (AVR), has done an extraordinary job. He comes out of Flight Standards. He is very, very close to John Hickey, who is the head of the Certification shop. They have worked very well together.

Jim Ballough, the new head of Flight Standards, is working very closely with John Hickey. Some of those issues that we have had internally in the past have been dealt with very well.

There are a whole series of recommendations; and currently both John Hickey and others within the AVR organization are laying out action plans with the industry to implement the recommendations. We have had an opportunity to brief the NTSB and got a pretty positive response.

We will have an action plan that we would like to share with you in very short order, but the immediate issue was to deal with our own internal communication.

Senator MURRAY. That is——

Ms. GARVEY. We have made some good, you know, good progress there.

[The information follows:]

A plan to address the findings and recommendations for improving communications is being drafted. The plan is in final coordination with the Government/Industry Oversight Board. We do not have an estimated date when the Board coordination will be completed. The plan, when completed, will be provided to the Committee.

Senator MURRAY. Yes; that has been done.

#### COMPETITIVE PROCUREMENT

Following up on an issue that was raised by Senator Shelby, last year, your agency was severely chastised by the court for trying to sole source the new En Route Automation Modernization or ERAM program to Lockheed-Martin.

The Raytheon Company succeeded in requiring that the program be competed. Now, that you have published your specifications for the competition, Raytheon is taking you to court, alleging that the specifications are deliberately drafted so that Lockheed wins the competition.

Are you confident of your ability to award an ERAM contract this year?

Ms. GARVEY. I am confident, Madam Chairman. And particularly because the two companies are in mediation right now, as I mentioned. While I do not know the details of them, I understand that they were very productive discussions last week. We clearly do not agree with the protest that was filed; but in any case, if you can resolve the issues through mediation, you are always better off from any kind of protracted court dilemma. Those discussions that took place last week are continuing this week, and I am still very hopeful that that will result in something that may even move up what we thought was going to be an award by the summer. There may even be a way to move that up sooner. So, we are interested in following the mediation process very carefully.

Senator MURRAY. Could that lawsuit actually extend the program out another year?

Ms. GARVEY. I think there is always the potential for that. I am not expecting that, and, again, I think we are on pretty solid ground. But my first preference would be to see mediation succeed.

Senator MURRAY. In the emergency supplemental chapter in last year's Defense Appropriations Bill, I included \$50 million that you did not request for proof of concept demonstrations on new aviation security technologies.

Within that amount, not less than \$25 million must be for a demonstration project that incorporates a global satellite-based

communications system and other technologies that are described in the conference report. I was really disappointed to learn that none of these funds for this initiative have been obligated to date.

Can you update me on the status of that initiative?

Ms. GARVEY. I can, Senator. We are going to competitive bidding on this, in part because some other companies have raised some issues about it. We think we can go to put out a Request for Proposal (RFP) next month, in early May, and we have to allow a certain amount of time for people to get the proposals back. But we would like to be able to make a decision before I leave in August. And again, I will revisit the time line today with our folks and make sure that we are all comfortable that we are moving it as quickly as we possibly can.

Senator MURRAY. The conference report that accompanied that appropriation mandated that these demonstrations leverage significant industry cost-sharing efforts. It is my understanding that Boeing is prepared to put up a significant amount of matching funds for this initiative. Do you know of any other vendor that is prepared to put up hard cash to match the \$25 million initiative?

Ms. GARVEY. I do know that Boeing, as you have indicated, has suggested a pretty significant amount.

The other proposal that was put forward, I am not sure what the amount is, but that certainly will be a factor and a part of the criteria as we move forward.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator MURRAY. Well, Administrator Garvey, you have sat through another long hearing this morning. It is likely the last hearing that you will be before this committee. Let me just, again, thank you for your tremendous service to this country. You are the longest-serving Administrator in the agency's history. And I would not want to end this hearing without thanking you for the tremendous job you have done in very, very trying circumstances. You have been accessible. Your integrity is unmatched and your commitment to public service, really, is admirable. So let me end this hearing by, again, thanking you for the tremendous job you have done, and to wish you the very best in your future.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

##### SENATE DIRECTIVE ON PERSONNEL REFORM

*Question.* In the Manager's Report for 2002 Transportation Appropriations, language was included expressing the Committee's concern over your agency's failure to implement a labor agreement with AFSCME. Chairman Murray stated that she expected your agency to implement the agreement immediately since it was affecting productivity and morale. Despite the Committee directive, you did not implement the agreement. Then the conferees on the Transportation Appropriations Conference Report directed you to report to both the House and Senate by January 15, 2002 on how you had implemented that agreement or your plans to implement our earlier directive.

Your response was received by January 15, but was not responsive to the conferees clear language. Instead of reporting on how you had implemented the agreement or your plans to implement the agreement you reported on the status of negotiations. It is my understanding that since your chief negotiator had signed off on

the agreement that negotiations were over. The only thing left to do is to implement the agreement. I ask that a copy of your January 15 response be included in the record.

Answer.

[The letter follows:]

DEPARTMENT OF TRANSPORTATION,  
FEDERAL AVIATION ADMINISTRATION,  
*Washington, DC, January 18, 2002.*

Hon. PATTY MURRAY,  
*Chairwoman, Subcommittee on Transportation, Committee on Appropriations,  
U.S. Senate, Washington, DC.*

DEAR MADAM CHAIR: This letter is in response to language contained in the Conference Report (House Report 107–308) accompanying the final version of H.R. 2299, the Department of Transportation Fiscal Year 2002 Appropriations Act. The Federal Aviation Administration (FAA) was requested to submit to the Appropriations Committees by January 15, 2002, a report on how the agency plans to implement committee report language contained in Senate Report 107–38 regarding personnel reform.

The Senate report stated the following:

*Personnel Reform.*—In April 1996, at the request of the Department of Transportation and the Federal Aviation Administration, Congress directed the FAA to develop its own personnel and compensation systems to give the agency more flexibility in hiring, training, compensating and retaining a highly technical and experienced work force. Under congressional mandate and in consultation with experts in personnel management, FAA commenced negotiating with its employees. Four employee groups have completed negotiations with FAA thus far. Three of these negotiated agreements, two with the National Air Traffic Controllers Association and one with the Professional Airways Systems Specialists, were implemented immediately upon ratification by the employees. The fourth agreement, between the American Federation of State, County, and Municipal Employees and the FAA, covering employees in FAA's headquarters, was ratified in late February 2001 but has not been implemented by the agency. The Committee is concerned that the failure to implement this contract has resulted in lost opportunities to obtain important productivity gains and a deterioration in the relationship between the agency and its employees. The Committee expects the agency to implement the ratified agreement immediately so that improved productivity can be achieved and employee morale can be improved.

I would like to take this opportunity to report to the Committees the status of negotiations between the American Federation of State, County and Municipal Employees, Council 26 (AFSCME) and the FAA on the parties' first labor agreement covering four bargaining units in FAA headquarters.

Negotiations between AFSCME and the FAA began in July of 2000. The work rules (non-pay issues) were completed rapidly and the parties began addressing pay issues in September 2000. From the opening session through the conclusion of discussions with AFSCME, the FAA made clear that a final agreement would be conditioned on the Office of Management and Budget (OMB) concurrence. OMB declined to concur with the tentative agreement that was reached in early February of 2001.

Because the condition of OMB concurrence was not met, the FAA's position is that a final agreement was not reached and that the parties must return to the bargaining table. AFSCME rejected the FAA's initial offer to return to the bargaining table. AFSCME's position is that FAA must execute the tentative agreement.

In March 2001, AFSCME filed an unfair labor practice (ULP) charge against the FAA with the Federal Labor Relations Authority (FLRA), and the matter is currently in litigation. Before the hearing on the ULP commenced, the FAA met with AFSCME representatives and offered to resolve the dispute based on earlier agreements with other unions. The parties were ultimately unable to reach a resolution and the parties participated in an FLRA hearing on the ULP complaint earlier last month. We remain ready to resume negotiations with assistance from the Federal Mediation and Conciliation Service, if necessary.

The FAA has made efforts to settle this dispute. The FAA has offered, on several occasions, to return to the bargaining table and resume negotiations. AFSCME has rejected a resumption of negotiations.

I will continue to keep the Committees informed as events warrant.

Identical letters have been sent to Chairwoman Murray, Senator Shelby, and Chairman Rogers.

Sincerely,

JANE F. GARVEY,  
*Administrator.*

*Question.* I have spoken with AFSCME's leaders and they testified under oath in an Unfair Labor Practice trial, that they did not acquiesce or agree to allow OMB to have power over the agreement. I request that a document from that trial in which OMB clearly states that FAA had the final authority to implement the agreement, be included in the record.

*Answer.* At this time, OMB produced a number of documents relating to the negotiations. Several of these documents were staff drafts of correspondence. It is not clear from your request whether these are the documents to which you are referring, but we have provided them for your review.

[The draft follows:]

[DRAFT]

Hon. PETER T. KING,  
*U.S. House of Representatives,*  
*Washington, D.C. 20015-3203.*

DEAR REPRESENTATIVE KING: Thank you for your letter of June 6, 2001, concerning the Federal Aviation Administration (FAA) and its consultations with the Office of Management and Budget (OMB) regarding a proposed collective bargaining agreement between the FAA and its employees.

We appreciate your interest in the matter of the proposed collective bargaining agreement. As you may be aware, this matter is presently in litigation before the Federal Labor Relations Authority, in a case brought against the FAA by the union representing its employees. In the Matter of: Department of Transportation, Federal Aviation Administration (Respondent) and American Federation of State, County & Municipal Employees, Council 26 (Charting Party/Union), Case WA-CA-01-0386. Due to this pending litigation, and at the Transportation Department's request, I have forwarded your letter to Secretary of Transportation Mineta, so that the Department can respond to you directly about the proposed collective bargaining agreement.

Thank you again for your letter.

Sincerely,

*Question.* I also request that a letter to Secretary Mineta from Senator Stevens and myself on this subject be included in the record.

*Answer.*

[The letter follows:]

U.S. SENATE,  
COMMITTEE ON APPROPRIATIONS,  
*Washington, D.C., October 10, 2001.*

Hon. NORMAN Y. MINETA,  
*Secretary of Transportation, Department of Transportation,*  
*Washington, DC 20503.*

DEAR MR. SECRETARY: We are writing to express our concern over the status of the collective bargaining agreement reached between the American Federation of State, County and Municipal Employees (AFSCME) and the Federal Aviation Administration (FAA). It is our understanding that this contract has yet to be implemented.

In 1995, Congress mandated in the fiscal year 1996 Department of Transportation Appropriations (Public Law 104-50) that FAA develop a new personnel system in "consultation" with its employees. The FAA wanted an agency and workforce that was better able to meet the demands of the 21st Century. The FAA requested total flexibility in personnel reform so that they could be competitive with private sector organizations and corporations in compensation and hiring.

Subsequently, Congress directed the FAA to "bargain" with the exclusive bargaining representative of the employees certified under section 7111 of Title 5, United States Code in the development of the new personnel system.

It is our understanding that AFSCME and the FAA initiated bargaining in June of 2000 over the new personnel system pursuant to the congressional mandates cited above. AFSCME and the FAA came to agreement in January 2001.

After negotiations were successfully completed, the FAA informed AFSCME that the Office of Management and Budget recommended that it not implement the

agreement. To date, the FAA negotiated four contracts as a result of the congressionally mandated personnel reform and the FAA has implemented three of these contracts. It appears unreasonable to single-out this one last contract that is neither more nor less generous than the other contracts. The FAA negotiated and agreed to the terms of the contract, and the FAA has the independent legal authority to implement this contract. But, to date, this contract remains unimplemented and dedicated employees affected by this delay are understandably demoralized.

Following the catastrophic events on September 11, the Headquarters employees represented by AFSCME performed with extraordinary professionalism, dedication and competency during the attacks on our Nation. In fact, they still staff the Emergency Response Command Centers set up to respond to the emergency and are continuing to work on new safety and security measures as well as developing a "new" air traffic control system.

We are seriously concerned about the morale of the employees caught in this standoff, and we would like to see this matter resolved expeditiously. We ask for your assistance in bringing closure to this matter.

Sincerely yours,

ROBERT C. BYRD,  
Chairman, Committee on Appropriations.  
TED STEVENS,  
Ranking Member, Committee on Appropriations.

*Question.* In light of the above information, I would like to have your comments concerning your agency's continuing failure to implement this binding labor agreement.

*Answer.* From the opening session through the conclusion of discussions with AFSCME, the FAA made clear that a final agreement would be conditioned on the Office of Management and Budget (OMB) concurrence. OMB declined to concur with the tentative agreement that was reached in early February 2001. Because the condition of OMB concurrence was not met, the FAA's position is that a final agreement was not reached and that the parties must return to the bargaining table. The issue of whether a final agreement was reached is the issue now before the Administrative Law Judge.

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#### QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

##### AIRPORT APPROACHES OVER MONTGOMERY COUNTY, MD

*Question.* After September 11, the FAA changed the landing procedures for planes landing from the north at Ronald Reagan Washington National Airport (DCA). It is my understanding that all aircraft approaching the airport from this route are forced to travel at low altitudes over densely populated areas of Montgomery County. Has the FAA examined the safety risks associated with this flight path?

*Answer.* Revised procedures to address security concerns were implemented in response to the tragic events of September 11, 2001. In addition, published instrument approach procedures were used on a regular basis to ensure aircraft maintained a straight and steady course to the airport. Between March 23, 2002 and April 27, 2002 the Federal Aviation Administration, working with the Department of Defense, the Office of Homeland Security, and the United States Secret Service, continued its efforts to return operations at DCA to the previously established noise abatement procedures. On April 27, 2002, after an agreement was reached among all parties, aircraft arrivals and departures at DCA began operating again under the long-standing noise abatement procedures that were in effect prior to September 11. These procedures are for visual flight rules and provide for the aircraft to fly over either the Potomac or Anacostia Rivers.

The noise abatement procedures for aircraft flying to DCA from the north are provided when the cloud ceiling is 3,500 feet above ground level or greater, and the visibility is 3 statute miles or greater. Otherwise, the aircrafts fly the instrument approach procedures that were in effect prior to September 11. These procedures provide required minimum altitudes, below which the airplanes are not to fly, in order to safely fly to the airport during inclement weather.

##### NOISE ABATEMENT IN MONTGOMERY COUNTY, MD

*Question.* What is the FAA doing to address noise abatement issues in Montgomery County?

*Answer.* In order to address noise abatement issues in Montgomery County, the FAA on April 27, 2002, re-instituted the long-standing noise abatement procedures

that were in effect for arrivals to and departures from Ronald Reagan Washington National Airport (DCA) that were in effect prior to September, 11, 2001.

These noise abatement procedures can only be used during good weather conditions because the pilot must be able to see the ground in order to stay over the rivers. During inclement weather conditions all aircraft must follow the instrument approach or departure procedures that were in place prior to September 11, 2001. The procedures we are using today are exactly the same as the procedures we followed prior to September 11, 2001.

#### PRIMARY LONG-RANGE RADARS

*Question.* I understand that the FAA has a mix of more than 100 aging primary long-range radars, utilizing technology that dates back to the 1950's. Given the FAA's November 2001 decision to retain these primary long-range radars, what actions have you taken to ensure their sustainment?

*Answer.* The FAA is currently performing upgrades to the infrastructure at long-range radar facilities that will ensure the continued operation of these facilities. The agency has also initiated, jointly with the Department of Defense, studies to examine the operability, reliability, and maintainability of the existing inventory of long-range, primary radars in the en route environment. These studies will reveal the nature and extent of any modifications that may be required.

*Question.* The FAA maintains more than 125 primary long-range radars for safe air traffic control and provides the DOD with data from these radars for Homeland Defense purposes. It's my understanding that while these radars provide excellent coverage around the perimeter of the United States, there may be coverage gaps in the interior of the country.

How does the FAA plan to support the DOD's Homeland Defense surveillance requirements for non-cooperative aircraft?

*Answer.* The FAA will continue to provide surveillance information to the Department of Defense and U.S. Customs Service from existing assets, as well as establish additional data connections as requested, in order to support these agencies' need to identify and track non-cooperative aircraft.

In addition, FAA is participating in the Airspace Management and Protection Work Group established by the Office of Homeland Security. This multi-agency workgroup that is currently developing a national surveillance plan that provides a common airspace picture and enables the exchange of surveillance data among air surveillance stakeholders.

*Question.* Does the FAA plan include the deployment of additional FAA primary long-range radars?

*Answer.* No. However, the agency is working collaboratively with the Department of Defense, U.S. Customs Service, and other users to identify their surveillance needs and assess the viability of fulfilling their needs with existing FAA assets.

#### STANDARD TERMINAL AUTOMATION REPLACEMENT SYSTEM (STARS)

*Question.* It has been brought to my attention that the STARS program has suffered serious setbacks resulting in substantial cost overruns and delays. Please describe the oversight you are applying to the current STARS testing.

*Answer.* The program has met all major milestones since the 1999 restructuring, including the start of operations at our key sites of El Paso, Texas, and Syracuse, New York, with both our Early Display Configuration and the initial version of Full STARS. The program is also on track for the start of operations with the national baseline version of Full STARS in Philadelphia in November 2002.

There is a significant amount of oversight in place today. The STARS team provides senior FAA leadership with biweekly updates on all aspects of the STARS program, including ongoing testing. Since 1999, the STARS team also briefs the aviation authorization subcommittees in the House and Senate on a regular basis. Additionally, the Department of Transportation Inspector General continuously provides oversight and explaining concerns to the FAA, Congress, and the media.

*Question.* Have you made any changes to the STARS software delivery schedule? Please describe these schedule changes.

*Answer.* No significant changes were made to the schedule since the STARS program was restructured in 1999, and since the addition of a modified software version for Philadelphia in 2000.

All software delivery milestones were met and the system is on track to begin nationwide deployment when we commence operations at Philadelphia in November 2002.

*Question.* Have you encountered any testing problems which may result in future scheduling delays?

Answer. No. Testing of the national software baseline is on track and going as planned. We don't expect any delays.

In the normal testing process, the team identifies "program trouble reports" (PTRs) which they fix. We are now in the second of three phases of operational testing of the national software baseline. The number of PTRs will go up as testing progresses, and will then go down between each phase as the critical ones are fixed.

*Question.* Please quantify the cost-overruns associated with the STARS program as reported by the DOT-IG.

Answer. STARS has a past history of escalating costs, due largely to human factor changes made in the late 1990s. The original STARS contract was awarded to Raytheon in 1996 with an estimated cost of \$940.2 million. In 1999, FAA and Raytheon restructured the contract to deploy STARS in various phases and to address human factor issues. This increased the cost estimate to \$1.4 billion (\$273 million for human factor changes).

The present cost baseline for STARS is \$1.33 billion. This takes the program completely through the development phase and through replacement of the most "critical risk-to-service" facilities. Although a cost estimate of \$1.69 billion exists for the full production phase (verses the \$1.4 billion baseline of 1999), the agency has not sought approval of that estimate, as it is exploring various means to reduce out-year costs.

The cost estimate (\$1.69 billion) that the DOT-IG used for the STARS program projects an increase of roughly \$285 million. Most of that amount, \$220 million, would be due to increased production and deployment costs.

The other \$65 million is due to increased development costs. The increase in development costs was primarily due to the creation of an additional software baseline for national deployment. That baseline required us to procure additional hardware, contract for additional work from our prime contractor, and conduct additional development and testing, while maintaining the approved schedule.

The estimate for the increase in production costs is primarily due to increased adaptation activities, establishment of deployment teams, an increase in spares requirements, product warranties, unbudgeted prime contractor support after initial operations, unbudgeted Early Display Capability (EDC) to Full Service (FS), and unbudgeted replacement for Sony display tubes.

#### QUESTIONS SUBMITTED BY SENATOR HARRY REID

##### STANDARD TERMINAL AUTOMATION REPLACEMENT SYSTEM (STARS) DEPLOYMENT SCHEDULE

*Question.* Please provide a detailed deployment schedule and cost estimate for the installation of the entire system, not just through 2004.

Answer. The present cost baseline for STARS is \$1.33 billion. This takes the program completely through the development phase and through replacement of the most "critical risk-to-service" facilities. Although a cost estimate of \$1.69 billion exists for the full production phase, the agency has not sought approval of that estimate, as it is exploring various means to reduce out-year costs.

STARS will go operational in the following cities in:

*Fiscal year 2003.*—Philadelphia, PA; Portland, OR; Miami, FL; Milwaukee, WI; San Antonio, TX; Raleigh, NC.

*Fiscal year 2004.*—Tucson, AZ; Kansas City, MO; Nashville, TN; Roswell, NM; Port Columbus, OH; Moses Lake, WA; Boston, MA; Charlotte, NC; Rochester, NY; Oklahoma City, OK; Tulsa, OK; Seattle/Tacoma, WA; Santa Barbara, CA; Dayton, OH; Salt Lake City, UT; Cincinnati, OH; Buffalo, NY; Indianapolis, IN; Daytona Beach, FL.

*Fiscal year 2005.*—Little Rock, AK; Norfolk, VA; Pittsburgh, PA; New Orleans, LA; Orlando, FL; Shreveport, LA; Cedar Rapids, IA; Pensacola, FL; Houston, TX; Atlantic City, NJ; Grand Rapids, MI; Portland, ME; Toledo, OH; Pasco, WA; Madison, WI; Jacksonville, FL; Akron, OH; Wichita, KS; Phoenix, AZ.

*Fiscal year 2006.*—Lubbock, TX; Harrisburg, PA; Bangor, ME; Austin, TX; Fort Wayne, IN; Eugene, OR; Lansing, MI; Tampa, FL; Lafayette, LA; Boise, ID; Savannah, GA; Erie, PA; Lincoln, NE; Burlington, VT; West Palm Beach, FL; Rome, GA; Flint, MI; Greensboro, NC; Springfield, MO; Palm Springs, CA; Waco, TX; Rochester, MN; Charleston, SC; Roanoke, VA; Aspen, CO; Reno, NV; Huntsville, AL; Rockford, IL; Montgomery, AL; Muskegon, MI; Knoxville, TN; Peoria, IL.

*Fiscal year 2007.*—Springfield, IL; Baton Rouge, LA; Fayetteville, NC; Fort Smith, AR; Fort Myers, FL; Colorado Springs, CO; Gulfport, MS; Billings, MT; Green Bay, WI; Kingsport, TN; Fresno, CA; Columbia, SC; Greer, SC; Fargo, ND; Abilene, TX;

Lexington, KY; Allentown Bethlehem/Easton, PA; Sioux City, IA; Youngstown, OH; Cape Cod, MA; Charleston, WV; Augusta, GA; Corpus Christi, TX; Kalamazoo, MI; Elmira, NY; Saginaw, MI; Great Falls, MT; Mobile, AL; Champaign, IL; Wilkes-Barre, PA; Spokane, WA; Midland, TX; Wilmington, NC; Hilo, HI; Duluth, MN.

*Fiscal year 2008.*—Asheville, NC; Casper, WY; Myrtle Beach, SC; Evansville, IN; Monroe, LA; Florence, SC; Amarillo, TX; Bakersfield, CA; South Bend, IN; Waterloo, IA; Reading, PA; Jackson, MS; Sioux Falls, SD; Lake Charles, LA; Huntington, WV; Terre Haute, IN; Tallahassee, FL; Chattanooga, TN; Louisville, KY; Mansfield, OH; Binghamton, NY; Moline, IL; Longview, TX; Bismark, ND; Clarksburg, WV; Meridian, MO.

*Fiscal year 2009.*—Pueblo Memorial, CO.

*Question.* Please describe your contingency plan if STARS cannot be deployed according to the current schedule. What are the costs involved and what would it take to trigger the plan?

*Answer.* If STARS were not deployed according to schedule, the contingency would be to continue operations with the existing automation system until STARS is deployed to that site. The added cost to the agency would be an increase in the maintenance costs of the existing system. Not all of the sites have the same existing system, however. Some sites have an “ARTS IIIA” system, some have an “ARTS IIE” system and some have an “ARTS IIIE” system.

The ARTS IIIA sites are the first to be replaced. The last IIIA site is Tampa, which is scheduled to be replaced in the middle of 2005. Should the STARS deployment schedule slip prior to Tampa, ARTS IIIA maintenance would be required for a longer duration than was otherwise planned. The cost would be directly related to the number of sites slipped as well as the length of time slipped. Maintaining all of the ARTS IIIA sites currently costs approximately \$5 million a year. This cost begins to go down in fiscal year 2004, and eventually phases out as STARS replaces the ARTS IIIA's.

After the ARTS IIIA's are replaced by STARS, the ARTS IIE and ARTS IIIE sites will be replaced thru 2008 (although a few IIE and IIIE sites are planned for replacement prior to 2005). If there was a delay in STARS deployment at this point, additional ARTS IIE and ARTS IIIE maintenance dollars would be needed. The ARTS IIIE's cost approximately \$5 million a year to maintain. The ARTS IIE's cost approximately \$2 million a year to maintain. Again, the total amount needed would be directly related to the number of sites delayed as well as the length of time.

In addition to maintenance costs, there would also be the cost to refurbish old equipment to meet operational needs if STARS is delayed. The average cost to refurbish old equipment per year is \$972,840 for ARTS IIIA's, \$585,420 for ARTS IIE's, and \$392,150 for ARTS IIIE's.

*Question.* According to the IG's office, the FAA never justified its rejection of Common ARTS as a substitute for STARS, particularly since it is operational at 140 FAA sites, including six of the busiest terminal facilities. The IG points out that Common ARTS already provides the functionality that STARS proposes to provide when it is deployed. Would you support an independent evaluation of Common ARTS' and STARS' functionality, cost, and schedule risk?

*Answer.* The FAA has done several analyses of alternatives to meet automation requirements, starting with the competition in 1996 when Raytheon was awarded the STARS contract over the other bidders, including Lockheed Martin.

Starting in October of 1999, and more recently in March of 2002, the team conducted economic analyses of the STARS program before senior FAA management and received approval to continue moving forward with the program.

Results consistently indicate the economic feasibility of continuing the STARS program versus pursuing an alternative. There are also intangible benefits to STARS that are not readily quantifiable, including higher levels of information security and more data for controllers (such as latitude and longitude readouts, minimum separation indicators and additional data block fields).

Common ARTS and STARS are very comparable in terms of what they provide in the near-term. STARS has features that ARTS does not have, and vice-versa. However, many of the computer-human interfaces that were added to STARS in 1999 are not available in Common ARTS, particularly in their color displays. Additionally, STARS has the capability to support a more complex national airspace system and to expand with future growth in traffic.

Despite all of the steps that have been taken, the FAA would support any additional independent evaluation of this matter.

## QUESTION SUBMITTED BY SENATOR HERB KOHL

## STANDARD TERMINAL AUTOMATION REPLACEMENT SYSTEM (STARS) AT PHILADELPHIA AIRPORT

*Question.* I am pleased to learn that Philadelphia Airport will begin operation of the STARS radar system in November 2002. I also appreciate your efforts to address the radar problems experienced by Philadelphia in March 2000 and your willingness to work with my office and the air traffic controllers in Philadelphia to expedite the installation of the new STARS system. Some concerns have been brought to my attention that software testing for the new system has experienced problems and may result in installation delays. I would appreciate your providing me with an update on the testing currently underway and whether we can still expect the system to be operational this November.

*Answer.* Testing of the national software baseline is on track and going as planned. We don't expect any delays.

The STARS software for Philadelphia (the national baseline) is currently in the second of three phases of operational testing at the FAA Technical Center in New Jersey. After these phases are complete, on-site testing will begin at El Paso in August and at Philadelphia in September.

As part of the normal testing process, the team identifies "program trouble reports" (PTRs), which they fix. The number of PTRs will go up as testing progresses, and will then go down in between each phase as they fix the critical ones.

Philadelphia's success in November depends on the integration of several factors, including new ASR-11 digital radars, STARS, and the construction of a new room for controllers. The FAA has been holding bi-weekly meetings at Philadelphia with all the stakeholders to integrate these factors, and all are on track for operations to begin in November 2002.

## QUESTION SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

## EMERGENCY INFORMATION DISSEMINATION

*Question.* In the hours following the attacks on the Pentagon and the World Trade Center, it was clear that the lines of communication between everyone involved in air travel—the FAA, Federal authorities, airlines, and customers—was severely deficient, if not to say completely inadequate. What steps have been taken to improve this so that information moves quickly and accurately from the air traffic controllers to the airlines to the passengers, and most importantly, to the appropriate agencies in the event of another emergency?

*Answer.* The Federal Aviation Administration (FAA) has initiated and implemented many actions over the last year to improve the lines of communications for the users of the National Airspace System regarding airport and flight status information. Many steps have been taken to provide timely and accurate information to passengers through the Internet, a CNN Airport Network ticker, CNN Airport Network public service announcements, and through meetings with airlines and airport officials. For example, the FAA established a real-time wireless notification system targeted for travelers on the go. Users can subscribe to receive delay notification to wireless devices such as cell phones, Palm Pilot type devices, and pagers at no cost to the traveling consumer. Additionally, the FAA redesigned the [www.fly.faa.gov](http://www.fly.faa.gov) website to be more user friendly and, in an effort to share information with outside organizations, the website has a section which allows external organizations to automatically retrieve the data. Some organizations currently using the information include CNN and USA Today.

The FAA, in concert with the Department of Defense (DOD), NORAD, and other Federal agencies has in place policies, procedures, and communications infrastructure to monitor aircraft for suspicious activity and deviation from authorized flight. Awareness, refinement, and training on these policies and procedures, since September 11, 2001, are ongoing. A system is in place for interagency, DOD, and law enforcement information sharing to facilitate each organization's requirements. Additionally, the FAA is currently working with the Office of Homeland Security and other agencies to meet interagency requirements for enhanced ground/ground communications and surveillance availability. Certain current and planned technologies are considered Security Sensitive Information (SSI) and are prohibited from dissemination.

Additionally, the Office of Homeland Security has developed the Homeland Security Advisory System (HSAS) to improve coordination and communication among all levels of government and the American public. The processes and information tech-

nology systems to communicate Threat Conditions and threat information to Federal, State, and local governments, and the private sector are an integral part of the HSAS.

#### CONCLUSION OF HEARINGS

Ms. GARVEY. Thank you very much, Madam Chairman. Thank you.

Senator MURRAY. This hearing is recessed.

[Whereupon, at 12:04 p.m., Tuesday, April 16, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]



## DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2003

U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.*

[CLERK'S NOTE.—The following testimonies were received by the Subcommittee on Transportation and Related Agencies for inclusion in the record. The submitted materials relate to the fiscal year 2003 budget request.

The subcommittee requested that public witnesses provide written testimony because, given the Senate schedule and the number of subcommittee hearings with Department witnesses, there was not enough time to schedule hearings for nondepartmental witnesses.]

### PREPARED STATEMENT OF THE AMERICAN PASSENGER RAIL COALITION

Chairman Murray and Members of the Subcommittee on Transportation Appropriations, thank you for the opportunity to provide testimony on fiscal year 2003 appropriations for the national Amtrak system and to advance development of high-speed rail in designated corridors around the country. My name is Harriet Parcels and I am the Executive Director of the American Passenger Rail Coalition, an association of the nation's railroad equipment suppliers and rail businesses.

This is a critical time for the Federal Government to provide strong support for the nation's intercity passenger rail system, Amtrak. The American Passenger Rail Coalition (APRC) urges Congress to fully fund Amtrak's budget request to Congress of \$1.2 billion in fiscal year 2003. This is the level of funding that Amtrak needs to ensure the railroad has sufficient funds to continue operating the current national passenger system over the next fiscal year. APRC also asks Congress to continue strong funding in fiscal year 2003 of the Federal Railroad Administration's high-speed rail R&D programs and funding to advance development of designated high-speed rail corridors.

The national Amtrak system serves over 500 cities and rural communities. The rail system provides clean, safe, affordable and energy-efficient mobility for millions of Americans each year. In metropolitan corridors, rail offers an efficient, cost-effective alternative to congested highways and airways. For small cities and communities, rail is an essential link to other regions of the country and supports economic development. As we saw in the days and weeks following the terrorist attacks of September 11, our national intercity passenger rail system enhances national security. In the days following the attacks, when service was shut down nationwide, Amtrak trains continued to roll carrying thousands of individuals and families safely to their destinations. The trains kept the country mobile and productive. The attacks highlighted the vulnerability of the U.S. transportation system's overdependence on a single mode of transport and the value of providing citizens with mobility choices, including the choice of intercity passenger trains.

#### *Rail Ridership Remains Strong*

Despite a weakened economy and decreased travel and tourism over the past six months, Amtrak ridership in the first half of the fiscal year (October 2001-March 2002) rose 1.3 percent over the prior year. The gains in rail ridership come on top of 5 years of steady rail ridership and revenue growth. Amtrak ridership rose 19

percent from 1996–2001 and revenues rose 40 percent. The continued upward trend in rail ridership contrasts with a 17 percent decline in domestic airline travel from October 2001–February 2002, according to the Air Transport Association.

Ridership on the high-speed Acela Express and Metroliner services in the Northeast Corridor between Washington D.C., New York City and Boston experienced particularly strong growth, up 32 percent in the October 2001–March 2002 period compared to 1 year ago. Customer demand for sleeping cars on Amtrak's long distance trains is also strong—ridership is up 7 percent, ticket revenues up 19 percent in March 2002 vs. March 2001. Ridership on the Cascades service in the Pacific Northwest rose 5 percent in the first half of the fiscal year compared to the same period a year ago, continuing a strong trend in ridership growth since 1993 on this rail corridor. Ridership on the Pacific Surfliner rose 7 percent and ridership on the Cardinal service through West Virginia jumped 28 percent.

#### YEARS OF FEDERAL UNDERINVESTMENT SHORTCHANGE PASSENGER RAIL

Years of Federal Government underinvestment in intercity passenger rail have shortchanged the nation's intercity passenger rail system. For decades, the government invested, and continues to invest, billions of dollars to build and improve highway and airport infrastructure and technology, but neglected and undercapitalized its intercity passenger rail system, Amtrak. In fiscal year 2001, Federal funding for highways was on the order of \$33 billion, for aviation, about \$13 billion and for Amtrak, only \$521 million (an additional \$105 million was provided separately for life safety improvements in the New York City tunnels and for security enhancements on the national system). Amtrak is expected to be operationally self-sufficient, yet competing modes are not. The Federal Government established trust funds for highways and aviation to provide a secure stream of funding to meet their capital and operational needs. Yet, no dedicated funding has been established for intercity passenger rail despite the compelling logic for doing so.

The U.S. government invests less than 1 percent of transportation spending each year in intercity passenger rail. Other industrialized nations have a much more balanced approach to transportation investment and dedicate significant percentages of their transportation budgets to improve passenger rail service. Germany and France invest over 20 percent of total transportation capital funding in rail; Great Britain, 17.6 percent.

#### STATES ARE LOOKING FOR A STRONG FEDERAL PARTNER IN RAIL INVESTMENTS

States are making substantial investments to improve intercity passenger rail service to assure future economic productivity and mobility for their regions and their citizens. As with other modes of transport, however, the States need a Federal partner to share the investment costs. Since 1993, the States of Washington and Oregon, along with Amtrak, Burlington Northern and other partners, have invested nearly \$500 million in improvements to the Pacific Northwest Corridor. The return on the investment has been dramatic: rail ridership has increased over 300 percent since 1993 and the improved passenger rail service has diverted over 6.5 million miles of traffic from regional highways and prevented more than 151 tons of pollutants, according to Washington State DOT.

Gridlocked freeways throughout the State of California, along with concerns about the environment and quality of life, have brought a large commitment by the State to improve intercity passenger rail service. Since 1990, California has invested \$1.6 billion in rail capital improvements to upgrade track, buy new passenger rail equipment and for other capital needs. Last year, California spent \$63 million to operate 50 State-supported passenger trains in regions throughout the State—the San Joaquin Valley, Sacramento, the San Francisco Bay Area and Southern California. Rail ridership has responded, growing steadily with the improvements and increased frequencies.

#### BENEFITS OF PASSENGER RAIL SERVICE TO RURAL COMMUNITIES

The need for intercity passenger rail service in congested metropolitan corridors is clear to most policymakers. What appears to be less appreciated is the value intercity passenger rail service provides to small cities and communities across the country. Yet, intercity passenger rail service is vital to the economic health of hundreds of America's rural communities and the mobility of their citizens. Citizens of rural communities like Rugby and Devil's Lake, North Dakota and Wolf Point, East Glacier and Whitefish, Montana depend on Amtrak's Empire Builder train as a safe, essential means of intercity travel, especially in winter when highway travel can be precarious or impossible. For residents of these and other rural communities, air travel is neither a convenient nor affordable travel option. The long-distance trains

are important to the economic health of rural communities. The trains bring tourists to the region, who come to fish, hike, ski and enjoy the region in other ways. Their spending on food, hotels and recreation is essential to the economies of the States and communities.

#### RAIL CONTRIBUTES TO OTHER NATIONAL GOALS

Travel by trains is energy-efficient, consuming 38 percent less energy (btu) per passenger mile than travel by commercial airlines. Transportation is the only sector of the U.S. economy that consumes much more oil today than it did 20 years ago. U.S. dependence on imported oil has been rising and since 1997, exceeds 50 percent of our daily domestic oil consumption. Two-thirds of the petroleum is used in transportation, mostly to fuel a growing fleet of cars and trucks. Investments in energy-efficient passenger trains are a sensible way to help reduce the vulnerability created by the country's growing and costly reliance on imported oil. Lower energy consumption translates into benefits to air quality. Investments in intercity passenger rail help reduce harmful air pollutants and contribute to State and community efforts to achieve healthy air quality.

At a time when the national security and economic benefits of the nation's intercity passenger rail system are clear, when States are appealing to the Federal Government to partner with them on investments to improve rail service and when rail ridership is rising, it is senseless that Amtrak is being forced to consider eliminating service on the majority of its passenger rail network. Yet, the nation's passenger rail system has reached this critical juncture.

APRC urges Congress to appropriate \$1.2 billion for Amtrak in fiscal year 2003 to ensure that Amtrak is able to continue to operate the current national system and to appropriate funding for FRA's high-speed rail R&D program and to advance development of designated high-speed rail corridors. Investments to improve intercity passenger rail service and develop high-speed rail in key corridors are wise investments that yield substantial returns for the nation, States and communities.

Thank you Chairman Murray and Members of the Subcommittee for the opportunity to provide this testimony on our nation's intercity passenger rail system and for the strong support this Subcommittee has demonstrated for intercity passenger rail over the years.

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#### PREPARED STATEMENT OF THE AMERICAN PUBLIC TRANSPORTATION ASSOCIATION

##### INTRODUCTION

The American Public Transportation Association (APTA) appreciates the opportunity to submit testimony on the fiscal year 2003 Department of Transportation and Related Agencies Appropriations bill.

APTA's 1,400 public and private member organizations serve the public by providing safe, efficient, and economical public transportation service, and by working to ensure that those services and products support national energy, environmental, community, and economic goals. APTA member organizations include transit systems and commuter railroads; design, construction, and finance firms; product and service providers; academic institutions; and state associations and departments of transportation. More than ninety percent of the people who use public transportation in the U.S. and Canada are served by APTA member systems.

##### *Public Transportation and TEA 21*

During the past five years, increased appropriations for the federal transit program, authorized under the Transportation Equity Act for the 21st Century (TEA 21), have been critical in assisting the public transportation industry address mobility issues around the country. We appreciate what the legislation, and its annual funding through the appropriations process, has meant for our industry. Public transportation ridership is growing, the demand for new transit projects and extensions continues, and Americans are including public transportation as an option in planning their daily activities. Freedom of mobility is critical to the spirit of America, and public transportation is an important component of that mobility. Therefore, APTA urges the Subcommittee in its fiscal year 2003 Transportation Appropriations bill to fund the federal transit program at the full \$8.2 billion level authorized in TEA 21.

##### PUBLIC TRANSPORTATION RIDERSHIP AT RECORD LEVELS

More and more people are choosing public transportation every day, and the numbers speak for themselves. Thanks in part to Congress' investment in the federal

transit program, public transportation is experiencing a renaissance. Americans used public transportation a record 9.5 billion times in 2001, and transit ridership has grown 23 percent since 1995, according to preliminary ridership figures. This represents the highest level in more than 40 years. Over the last six years, transit use has grown faster than the population (4.5 percent), highway use (11.8 percent), and domestic air travel (12 percent). In 2000, ridership was up in all modes and in all parts of the country. In the light rail category, Denver (41 percent), San José (34 percent), and New Jersey Transit (38 percent) experienced tremendous ridership success. New light rail service in Salt Lake City is exceeding estimates and was a big success during the recent Olympic Games. The commuter rail operations in Dallas (39 percent) and in Northern Virginia (20 percent) have had continued success. Heavy rail ridership increased by more than 7 percent in New York City, Washington, D.C., and Philadelphia, and it rose by nearly 4 percent in Chicago and by almost 13 percent in San Francisco. Bus ridership was up in large cities like Washington, D.C. (8.4 percent) and New York City (6.7 percent), as well as in cities across the country like Lexington, KY (5.7 percent) and Birmingham, AL (5.7 percent). Although the 2001 transit ridership numbers will not be finalized until later in April, preliminary indications are that, despite the economic downturn, transit ridership continued its upward climb with 2 percent growth over 2000 levels.

*Demand Soaring in all Modes and in all Communities*

The consistent, annual ridership growth in public transportation sends the message loud and clear: people are leaving their cars at home and using transit to meet their mobility needs. As new systems open doors and existing systems expand their service, demand is exceeding the speed at which new service can be funded and implemented. Now more than ever, growing congestion is causing people to seek alternative forms of transportation to commute to work, complete errands, make health care visits, and to get to and from sports and entertainment events. Therefore, it is of the utmost importance that we sustain the national commitment to an integrated transportation system by adequately investing in transit.

INVESTMENT IN PUBLIC TRANSPORTATION SHOWS RESULTS

Recent transit ridership increases are a direct result of the increased annual investment in the federal transit program. TEA 21 authorized \$41 billion for public transportation, and guaranteed \$36 billion, a significant increase over previous funding levels. This funding increase benefited transit systems in both urban and rural areas. In 2002, the rural program is funded at \$223.4 million, a 95 percent increase over the 1997 funding of \$115 million. This compares with a 65 percent increase in the overall growth of the federal transit program over the same period. One of the keys to this growth has been the transit funding guarantee provision, which has been instrumental in insuring that transit funding has increased on a consistent, annual timetable.

The increased transit and highway investments under TEA 21 have been put to work wisely and expeditiously on an array of transportation projects and improvements. Nearly 200 new or expanded rail or bus or rapid transit projects were authorized for 88 areas in more than 40 states. TEA 21 investments have enriched the lives of Americans by giving them mobility and the freedom to do what they want and need to do, and created real success stories. To capture some of these success stories, APTA and the American Association of State Highway and Transportation Officials jointly published a report on TEA 21, "Money at Work." We would be pleased to make copies available for the Subcommittee.

*Transit Plays Key Role in National Emergencies*

Perhaps one of the best illustrations of the benefits of the investment in the transit program was the role that transit played during the September 11, 2001, terrorist attacks. On September 11, citizens in New York and Washington relied on public transportation to evacuate from the urban core. In New York, hundreds of thousands of citizens were evacuated quickly and without injury. Here in Washington, the Washington Metropolitan Area Transit Authority proved its value in running the equivalent of two rush hours back-to-back and moving thousands of citizens out of harms way. This same story was true all across the country as transit systems helped evacuate citizens from shut down airports and center cities. We have published a report in this regard, "America Under Threat: Transit Responds to Terrorism," that we would be pleased to share with the Subcommittee.

INCREASED PUBLIC TRANSIT INFRASTRUCTURE INVESTMENT IS NEEDED

As noted, Madam Chairman, public transportation delivers significant benefits and transit ridership is up. Even though highway and transit investment has in-

creased, transportation experts agree that our annual capital investments still fail to keep pace with the increasing needs for public transportation. Transit industry needs, from all sources, for capital, planning, and research will average \$42 billion per year, between fiscal year 2004 through fiscal year 2009, according to a recent APTA Transit Needs Synthesis Report. The report summarizes existing needs estimates from APTA, the Federal Transit Administration, and the Community Transportation Association of America. While the \$42 billion estimate reflects potential investments in an unconstrained environment, it identifies the demand for new rail starts, buses and related facilities, rail modernization, core capacity improvements, preventive maintenance, paratransit, and other needs.

Additional reports addressing transit needs are expected in the next several months, including the Department of Transportation (DOT) Conditions and Performance Report, which will detail the investments needed for maintenance and improvement of the nation's highways and transit systems. The American Association of State Highway and Transportation Officials' (AASHTO) "Bottom Line" Report will also assess both highway and transit needs. APTA has been working with the Transit Cooperative Research Program (TCRP) to support the efforts of both DOT and AASHTO.

If current trends continue, over the next 15 years alone, highway travel is expected to increase by 40 percent and transit use by 60 percent. In order to accommodate such growth, it is critical to maximize the federal investment in all forms of surface transportation, including public transportation.

#### *Infrastructure in Critical Need of Repair*

Overworked bus and rail fleets paired with rapidly increasing ridership have taken their toll over the years, and recent assessments of the nation's infrastructure are disconcerting. The American Society of Civil Engineers (ASCE) released its 2001 Report Card for America's Infrastructure last March, and the news for transit was not good in terms of the state of the transit infrastructure. The report card gave transit a "C-" in 2001, down from its "C" in the prior report card in 1998. The ASCE cited the DOT 1999 Status of the Nation's Highways, Bridges, and Transit report, in which DOT recommends an annual investment of \$17 billion in order to improve both conditions and performance of transit. Most importantly, the ASCE urges the full funding of TEA 21 at its authorized level, \$8.2 billion for fiscal year 2003.

In addition, the National League of Cities report entitled "Six Critical Threats to Our Cities: Keys to Unlocking America's Future" lists the areas most in need of attention in order to reinforce America's prosperity. Among the hazards is the nation's aging infrastructure, and the NLC calls for the modernization of the transportation infrastructure in order to build the quality of life that families and businesses want and expect.

#### *Voters Demanding More Transit*

It's no wonder that so many American cities have recently voted to start or expand light rail, commuter rail, or bus service in their communities. Just recently, on March 5, in a California statewide election, voters overwhelmingly approved Proposition 42, requiring that all state gasoline tax revenue be devoted to transportation beginning in 2008. Under the provision, 20 percent of the gas sales tax funds will be used for public transportation. Voters have supported recent transit initiatives in Pierce County, Washington; Salt Lake City, Utah; Seattle, Washington; Toledo, Ohio; Providence, Rhode Island; King County, Washington, Houston, Texas, Glendale, Arizona, and in Portage County, Ohio, among others.

The nation's mayors also recognize the growing demand for public transit. In February, at a meeting of more than 300 mayors from across the country, a survey was released that showed that 80 percent of respondents agreed that the idea of investment in light rail can reduce congestion by presenting a viable alternative to driving.

#### ADMINISTRATION'S BUDGET PROPOSAL

Madam Chairman, while we are pleased that the Administration's fiscal year 2003 Budget proposes to honor the TEA 21 funding guarantees for public transportation, needs studies indicate a clear and growing need for investment in transit infrastructure. Thus, we urge you to fund the fiscal year 2003 program at the highest possible level.

#### *New Freedoms Initiative*

The Administration's fiscal year 2003 budget request includes a New Freedoms Initiative, designed to help Americans with disabilities by increasing access to em-

ployment and daily community life. The program would include \$100 million for grants for alternative methods to promote access to transportation, and \$45 million for a pilot program to promote innovative transportation solutions for people with disabilities. While APTA supports the Administration's New Freedoms Initiative, it recommends that it be financed with TEA 21 fiscal year 2003 funds authorized to be appropriated over the guaranteed amounts.

#### *Federal Match for New Starts*

The Bush Administration budget also proposes that, starting in 2004, the federal match under the new fixed guideway and extensions program be reduced from its current 80 percent to 50 percent. While we recognize the significant and growing demand for New Start funding and the interest in allocating it carefully, we are concerned about the larger transportation policy issue of a level playing field for all federal surface transportation funds. If highway funds continue to be available at an 80 percent federal match, and new start transit funds are available at 50 percent, it would seem that federal policy contains a built in bias discouraging local decision makers from making independent transportation decisions strictly on the basis of local needs, criteria, and the best solution to local transportation problems. Rather than revising federal shares in an attempt to spread the resource, we urge Congress to grow the program to accommodate the clear demand for federal investments in our nation's surface transportation infrastructure.

#### *Increased Funds are Required to Maintain ADA Compliance Standards*

Since the enactment of the Americans with Disabilities Act in 1990, transit agencies have made significant progress in the effort to ensure that all forms of public transportation are accessible to people with disabilities. According to an APTA survey of 300 transit agencies, there were approximately 25,000 U.S. transit buses in 1993 that were not wheelchair accessible. In 2000, that number was less than 11,000. Similarly, commuter rail operators reduced the number of non-accessible rail cars by more than half over the same time period. However, as the population ages, the need for demand response and paratransit service will continue to rise. Public investment for these services and further on-vehicle lift, ramp, and station improvements must keep pace for transit to meet mobility demands. In fact, the demand for paratransit services in particular is growing and the resulting costs are rising significantly.

As ridership across the nation's small and large communities continues to flourish, transit agencies struggle financially to meet the demand for additional service for disabled and elderly passengers. Such services are already frequently operating at capacity. We applaud the Administration's recognition—as demonstrated in its New Freedoms Initiative—that people with disabilities are well served by expanded mobility.

#### *Job Access and Reverse Commute Program*

In addition, APTA reaffirms the Federal Transit Administration's (FTA) assessment that the Job Access and Reverse Commute Program should be funded at the fully authorized level of \$150 million as provided in TEA 21. These programs not only get people to jobs otherwise unavailable to them, but they provide America's employers with access to the services of thousands of new employees. We commend FTA on its outreach efforts to date, and urge it to continue efforts to streamline the program administratively and focus on increased program coordination at the federal, state, and local levels.

#### *Transit Security & Fiscal Year 2002 Supplemental Request*

Madam Chairman, as we conclude our views on the fiscal year 2003 Transportation Appropriations bill, we also want to take this opportunity to comment on the recent submission by the Administration of its Emergency fiscal year 2002 Supplemental Appropriations Request. We mention in our testimony that transit played an important role during the terrorist attacks in New York and Washington last year. We should also note that transit agencies across the nation have made significant investments in security-related capital in recent months. As the Subcommittee develops a fiscal year 2002 Supplemental Appropriations bill, we urge you to consider the investments in security enhancements made by public transportation systems around the country.

#### CONCLUSION

Madam Chairman, public transportation ridership is at its highest point in decades, and transit systems in our largest cities and small communities are doing their best to keep up with growing demand. We are pleased with the sharp in-

creases in ridership, but it is taking its toll, and funds are needed to maintain and upgrade existing systems. We urge Congress to help lead the ongoing renaissance of public transportation and to support its many benefits, in communities of all sizes. Help us get the job done! Public transportation delivers an enormous return on the federal investment—it can provide freedom of mobility and a transportation choice for all Americans. We urge the Subcommittee to fund the fiscal year 2003 federal transit program at the \$8.2 billion authorized level.

APTA appreciates the opportunity to submit testimony on the development of the fiscal year 2003 Transportation Appropriations Act. We would be pleased to provide additional information to assist you in your deliberations.

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#### PREPARED STATEMENT OF CHATHAM AREA TRANSIT

Mr. Chairman, thank you for this opportunity to submit a statement for the Outside Witness Hearing Record. This statement presents critical needs of CAT for fiscal year 2003. I would like to thank Senators Max Cleland and Zell Miller for their support of this statement and CAT's needs for fiscal year 2003.

The request includes \$8,000,000 for Bus and Bus Facilities and Equipment and \$1,000,000 for Job Access and Reverse Commute purposes.

The Chatham Area Transit (CAT) request is \$8,000,000, comprised of four components: (1) The purchase of 36 replacement buses, all of which have between 600,000 and 900,000 miles, far above their designed service life of 500,000 miles, (2) Operations facility renovations, (3) Design costs for bus passenger facilities needed in the east and south sides of Savannah, and (4) Purchase of equipment to support ferry and trolley operations.

##### *Bus Replacement*

The bus replacement component will involve new vehicles that will be ADA compliant. The vehicles that currently need replacement are not ADA compliant.

CAT's annual increase in ridership exceeds the national average for transit ridership growth. CAT is serving a growing community that is increasingly reliant on public transit for its transportation needs. The growth in tourists using CAT has also placed new demands on the system's aging resources.

##### *Facility Renovation*

The current facility needs a new roof and replacement concrete pads in the parking areas. The constant bus traffic and their associated weight have caused severe damage to the CAT maintenance and administrative facility.

##### *Ferry and Trolley Operations*

CAT has assumed responsibility for trolley and ferry operations in the CAT service area. Equipment for these two operations will be needed to serve CAT's ridership and services.

CAT also requests \$1 million within the Job Access/Reverse Commute category. Continuation of this important program will permit CAT to meet current transit route schedules and transit needs.

Thank you for this opportunity to present CAT's needs for fiscal year 2003.

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#### PREPARED STATEMENT OF THE CITY OF NEWARK, NEW JERSEY

The City of Newark respectfully submits the following for your consideration:

- The Newark Penn Station Platform Extension and Inter-modal Access Enhancement Project, for which the City requests 4 million from the Bus and Bus Facilities program; and
- the Newark-Elizabeth Rail Link, a \$60 million request, included in the Administration's Budget, as a New Starts Rail initiative.

Chairman Murray and members of the Subcommittee, on behalf of the City of Newark, thank you for giving me the opportunity to present testimony to you on behalf of projects under your jurisdiction which are very important to the people of Newark, New Jersey and the surrounding region. The support of this Committee has been critical in the past, and we wholeheartedly thank you for your aid to projects that have truly impacted on the people of Newark and our economy. Newark's transportation infrastructure needs are vital to enabling us to maintain our position as a regional center for commerce, government and entertainment.

## NEWARK-ELIZABETH RAIL LINK

Newark is a City with vast potential, and there is a renewed vitality and sense of optimism in Newark. As the physical crossroads of the Northeast Corridor, the future economic viability of Newark is inextricably dependent upon the continued modernization and expansion of our intermodal transportation system. Improvements to our roadway network, our rail system, and our port and airport facilities directly translate into jobs and economic prosperity for our City, State and Region.

The construction of major new facilities, including the 4 year old New Jersey Performing Arts Center, our 2 year old minor league baseball stadium, and the Joseph G. Minish Passaic Riverfront Park and Historic Area—on which the Army Corps of Engineers is ready to begin its second phase of construction—are all related to the proximity and effectiveness of our transportation network. The renovation and repopulation of older office buildings, and construction of new ones, is occurring in large part due to the ease of access for commuters. Your help on transportation funding has improved access to not only the downtown business, arts and entertainment district, but also the rapidly growing Newark Airport/Port Newark complex. The success of University Heights, where four institutions of higher learning provide educational opportunities to over 50,000 commuter students per day, is also directly related to the ease of access to the highway system.

We are working to further capitalize on the existing transportation infrastructure by connecting current and proposed facilities with the Newark Elizabeth Rail Link. The first segment of the Newark Elizabeth Rail Link (NERL) is now under construction, thanks to your previous support. The first operable segment of the NERL will provide the missing link between downtown Newark's two train and bus transportation nodes. It will be a 0.94 mile connection between the Broad Street Station, where trains from the western suburbs enter the City, and Newark Penn Station, on the Northeast corridor line and the central hub for New Jersey Transit trains and buses. There will be three new stations on this segment—Broad Street Station, Washington Park/Riverfront Stadium, and N.J. Performing Arts Center/Center Street—which connect sites mentioned above, as well as our renowned Newark Museum and Newark Public Library, that are crucial to Newark's economic and cultural growth. The line then will enter a portal where it will connect with the existing City Subway tunnel to access Penn Station, which I will discuss further in a moment. At full build-out, the NERL is planned to be an 8.8 mile, fifteen station light rail transit line linking downtown Newark with Newark International Airport and the City of Elizabeth.

The NERL is an important and central component of our overall transportation plan. We are proud that a full funding agreement for this first operable segment of the Newark Elizabeth Rail Link was signed last summer, and the Administration has included funding for it in its budget. I respectfully ask this Committee to add its support for the \$60 Million budget request for this vital connection.

NEWARK PENN STATION PLATFORM EXTENSION AND INTER-MODAL ACCESS  
ENHANCEMENT PROJECT

A central feature of the downtown/riverfront area is the presence of AMTRAK facilities at Newark Penn Station. This station is the last northbound stop on the Northeast Corridor before New York City, and provides rail and bus linkages to the rest of New Jersey, and the region beyond. New Jersey Transit is doing an admirable job of renovating and modernizing the facility to accommodate increases in demand at the station, but the portion of the overall rail infrastructure that is owned and operated by AMTRAK is in great need of attention. The renovation and upgrading of AMTRAK property to better serve the City of Newark, its residents and visitors is a key factor in the City's economic development and transportation initiatives.

Newark Sports and Entertainment and the City of Newark are enthusiastic about continuing the effective federal partnership they have developed in support of the platform extension project at Penn Station. These platform extensions will enable passengers to exit the rail facility without having to navigate through passageways to exit through the station itself. This improvement will enable the connection of a pedestrian walkway to a planned economic development project, the new downtown sports and entertainment complex. With this extension, an old abandoned railroad bridge will be transformed into a productive pedestrian corridor, linking passengers to a recently planned inter-modal transportation facility that will be housed adjacent to the new sports facility. The project will help to revitalize the southern portion of Broad Street—which is Newark's main commercial corridor—just as other transportation projects have facilitated the renaissance of the upper Broad Street area. The entire cost of the platform extension at Penn Station is \$35 million, and

the amount requested for this appropriation totals \$4 million. This project meets all of the requirements for the Transportation Appropriations bill, and will serve as a model for other cities in desperate need of urban revitalization.

The assistance of this committee in funding these projects is vital. The Newark Elizabeth Rail Link and the Penn Station improvements are critical links in Newark's transportation network, and your support for them is crucial to our continued economic development. Your attention and consideration of the needs of Newark, New Jersey are deeply appreciated, and I thank you in advance for any assistance your subcommittee may provide.

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PREPARED STATEMENT OF THE COALITION OF NORTHEASTERN GOVERNORS (CONEG)

As the Subcommittee begins the fiscal year 2003 transportation appropriations process, the Coalition of Northeastern Governors (CONEG) is pleased to share with the Subcommittee testimony for the record on the fiscal year 2003 U.S. Department of Transportation appropriations. The CONEG Governors commend the Subcommittee for its past support of funding for the Nation's highway, transit and rail systems. We also urge the subcommittee to continue the important Federal partnership role in strengthening the Nation's passenger and freight rail systems through continued investment in rail safety and capital investment in intercity passenger rail and other critical projects. Continued Federal investment in transportation research and development is also an essential element of public and private efforts to enhance the safety and capacity of the Nation's transportation system.

An integrated, safe and fully funded national surface transportation system is a critical underpinning to the productivity of our economy, the well being of our communities, and the quality of life of our people. Within this system, the Northeast has unique transportation needs and challenges. For example, it is the most densely populated area in the Nation and has the Nation's oldest transportation infrastructure. In addition, the region's transportation infrastructure is among the most heavily used, and is exposed to the largest variation in seasonal changes in the country.

First, the Governors urge the Subcommittee to fund the highway and transit programs at least at the levels authorized in the Transportation Equity Act for the 21st Century (TEA-21) and, ideally, to fund the highway program at the fiscal year 2002 funding level. This level of funding is critical for the Federal-State partnership to achieve improved conditions, performance and safety of the region's and the Nation's highways and bridges.

Second, the Governors strongly urge the subcommittee to provide a level of funding for intercity passenger rail which ensures that safe, reliable service is provided across the Nation without interruption as the Congress and Administration address the future of intercity passenger rail. The need for substantial Federal investment in intercity passenger rail is independent of the outcome of the current policy debate on the shape and future of Amtrak. The USDOT Inspector General has noted that over \$1 billion in capital funds is needed annually just to sustain the current intercity passenger rail system, regardless of who operates that system. The States are already major investors in the current intercity passenger rail system, with the Northeast and Mid-Atlantic States already investing approximately \$2.5 billion in intercity passenger rail infrastructure since 1991.

Intercity passenger rail is an indispensable part of our Nation's transportation system, particularly in the Northeast and Mid-Atlantic region. This has become more clear since the events of September 11 when rail provided a much needed redundancy to the Nation's transportation system. A degradation or sudden disruption in safe, reliable intercity service, whether through reduction in essential maintenance, devastating service cuts, or bankruptcy by Amtrak, would jeopardize the future opportunity of passenger rail service across the Nation. In the Northeast, it would add enormous pressures on the region's already over-burdened highway and airport capacity. The Federal Government must continue to be a strong consistent funding partner of intercity passenger rail, just as it has for the other modes of transportation that promote the efficient movement of people and goods.

Third, the Governors support efforts to improve the security of our Nation's transportation infrastructure, including fully funding the President's request for the newly created Transportation Security Agency to provide security for the Nation's transportation infrastructure, particularly the Nation's airports.

Fourth, the Governors urge the Subcommittee to continue funding for investments in Intelligent Transportation Systems (ITS). The densely populated Atlantic Coast region relies heavily on ITS to improve operations every day on both highways and transit. However, in the wake of September 11, the region's ITS systems, including those provided by TRANSCOM and the I-95 Corridor Coalition, played a critical

role in both the emergency management and recovery phases of the operation. These organizations, funded through the Federal ITS program, supported and helped coordinate the movement of convoys of military personnel and emergency service agencies in the hours immediately following the event. They also helped support the recovery effort as the transportation system was systematically brought back on line.

Fifth, safety on the Nation's highways, transit and rail systems remains a priority of the Governors. We are specifically concerned about the safety of the aging rail tunnels along the Northeast Corridor, and urge the Subcommittee to fund life safety improvements for the Baltimore and New York tunnels. In addition, the Governors support full funding for the Railway-Highway Crossing Hazard Elimination Program. As part of the Federal-State partnership to correct hazardous conditions on the Nation's highways, investments in highway-rail crossings can reduce injuries and death from accidents even as they allow higher train speeds and increased reliability.

Sixth, the Governors support the President's funding request of \$20 million for the Surface Transportation Board, and urge the Subcommittee to fund the Federal Railroad Administration at current levels.

Seventh, the Governors support continued Federal investment in transportation research and development programs, particularly the Federal Railroad's Next Generation High Speed Rail program. This program enhances safety and helps stimulate the development of new technologies which will benefit improved intercity rail service across the Nation.

The Governors also support funding to ensure that the U.S. Coast Guard can maintain the readiness of its fleet to carry out ice-breaking and related maritime safety responsibilities, in addition to its law-enforcement operations. The Northeast is highly dependent on waterborne shipments of distillate to meet winter heating oil, diesel fuel, and other petroleum product needs. Therefore, the Coast Guard's ice-breaking operations are a critical link when severe winter weather threatens a complex and fragile delivery system. Without additional resources, an aging fleet of ice-breakers and deferred maintenance place additional stress on this essential logistics system.

The CONEG Governors thank Chairman Rogers, Ranking Member Sabo and the entire Subcommittee for the opportunity to present this testimony, and appreciate your consideration of these requests.

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#### PREPARED STATEMENT OF THE ILLINOIS DEPARTMENT OF TRANSPORTATION

Madam Chairwoman and Members of the Subcommittee, we appreciate the opportunity to submit testimony concerning fiscal year 2003 U.S. Department of Transportation (U.S. DOT) appropriations on behalf of the Illinois Department of Transportation (IDOT) to the Senate Appropriations Subcommittee on Transportation and Related Agencies. We thank Subcommittee Chairwoman Murray and the members of the Subcommittee for their past support for a strong Federal transportation program and for taking into consideration Illinois' unique needs. Our recommendations for overall funding priorities and our requests for transportation funding for projects of special interest to Illinois are described below.

#### HIGHWAY FUNDING

Illinois has an extensive highway system to serve the diverse needs for passenger and freight travel within and through the State. There are over 288,000 lane miles of public highway that carries over 102 million vehicle miles of travel annually. IDOT urges the Subcommittee to set the fiscal year 2003 obligation limitation for highway and highway safety programs at the fiscal year 2002 level of \$31.8 billion. Unless action is taken, the fiscal year 2003 \$4.4 billion reduction in Revenue Aligned Budget Authority (RABA) will lead to an obligation level of \$23.2 billion. This would result in a reduction of \$8.6 billion in national funding to States for fiscal year 2003 from the fiscal year 2002 enacted level, a 27 percent drop. Given that the country is in the midst of an economic recession, it would be counterproductive to drastically cut highway funding that produces valuable jobs. We estimate that the drop in Federal highway funding would result in an employment loss of more than 5,660 direct construction-related jobs in Illinois. Therefore, Congress needs to fully restore the \$8.6 billion Federal highway funding cut. We believe this can be accomplished by using a portion of the current balance in the Highway Account of the Highway Trust Fund. We also urge that the restored funds be distributed to the States in the same way highway funds are currently allocated. We appreciate the support of the Subcommittee and the full Appropriations Committee for the provi-

sion adopted in the House Budget Resolution to at least offset the fiscal year 2003 RABA reduction.

IDOT Requests the Following Earmarks For Highway Construction Projects:

- Stevenson Expressway reconstruction in Chicago.*—IDOT requests an earmark of \$30 million to assist in financing the final stage of the \$567 million Stevenson Expressway reconstruction project. IDOT believes that this earmark is warranted because of the extraordinary cost of this project and because the Stevenson Expressway is of national and international importance in the movement of people and freight. A special earmark of \$30 million from the Discretionary Interstate Maintenance program or from another discretionary highway funding category will aid in finishing this costly project.
- Wacker Drive reconstruction in Chicago.*—IDOT and the city of Chicago jointly request an earmark of \$39 million to assist in financing the estimated \$210 million cost to reconstruct Wacker Drive from Michigan Avenue to Randolph Street, located in downtown Chicago. IDOT and the city believe that this earmark is warranted because of the extraordinary cost of the project and because Wacker Drive is critically important to the city's transportation system. A special earmark of \$39 million from the Discretionary Bridge program or from another discretionary highway funding category will aid in financing this costly project.
- Intelligent Transportation Systems (ITS) projects.*—IDOT requests a fiscal year 2003 earmark of \$10 million in ITS Deployment funds for key projects in the Chicago and other metropolitan areas in Illinois to enhance system operations and for various locations around the State for security, commercial vehicle operations, work zone safety and weather/roadway condition information. The list of projects is shown in Attachment 1. IDOT believes that this earmark is warranted because it will aid in implementing vitally needed projects that enhance the effectiveness and efficiency of the transportation system and improve mobility, safety and security for all highway users.

If the Subcommittee again earmarks funds from the National Corridor Planning and Development (NCPD) and Transportation and Community and System Preservation programs in fiscal year 2003, IDOT requests funding for the projects listed below. We suggest that these projects be funded from the NCPD program but defer to the Subcommittee's judgement:

- US 30 in Will County (Williams Street to Illinois 43).*—IDOT requests an earmark of \$2.7 million for engineering and land acquisition on US 30 from Williams Street in New Lenox to Illinois 43 (Harlem Avenue). US 30 in this section of central Will County carries large amounts of traffic and is designated as a Strategic Regional Arterial. The segment connects the city of Joliet on the west and existing four-lane pavement on the east. The US 30 corridor is quickly developing, and the roadway needs to be expanded. Initial engineering for design and environmental assessment is currently under way with completion anticipated in fall 2002.
- US 45 in Lake County (Illinois 137 to Washington Street).*—IDOT requests an earmark of \$13.9 million to add lanes on US 45 from Illinois 137 (Buckley Road) to Washington Street in Grayslake. US 45 is a major north-south arterial route in central Lake County that carries large amounts of traffic. The first \$6 million of the requested funding would be used for additional lanes for 1.7 miles to extend four lanes northward from IL 137 to IL 120 (Belvidere Road). The remaining \$7.9 million of the requested funding would be used for additional lanes for 1.5 miles to extend four lanes northward from IL 120 to Washington Street.
- Fox River Bridge Crossing in Kane County.*—IDOT requests an earmark of \$2.5 million for land acquisition for the Stearns Road Fox River bridge crossing in South Elgin, Kane County. Federal funding is requested for land acquisition for a proposed Fox River Bridge Crossing within the Chicago Central and Pacific/Stearns Road Corridor in South Elgin. Phase I engineering for design, location and environmental studies is under way for the project, with completion estimated next fall. The Transportation Equity Act for the 21st Century (TEA-21) provided \$9.6 million in High Priority Project funding for the proposed Fox River bridge crossings; however, the minimum cost for any of the proposed bridges, including required roadway work, is at least \$60 million.
- Illinois 5 in Rock Island.*—IDOT requests an earmark of \$5 million for improvements to Illinois 5 in Rock Island. The requested Federal funding for improvements on IL 5 from 24th Street to 38th Street in Rock Island will complete the four-laning improvement on IL 5 through Rock Island and Moline and will complement the new West Rock River Bridge project.
- Illinois 6 Extension to Chillicothe.*—IDOT requests an earmark of \$1.2 million to expand the Illinois 29 corridor study north of Peoria. Illinois is about to un-

undertake preliminary engineering on a long-term project to expand IL 29 to four lanes from north of Chillicothe to I-180. The requested Federal funds will expand the limits of the corridor study to also include the extension of IL 6 to connect to the proposed four-lane IL 29 north of Chillicothe.

—*Allen Road in Peoria.*—IDOT requests an earmark of \$2 million to widen Allen Road in Peoria. Federal funding for this project will widen Allen Road (old IL 174) to five lanes for one-half mile from Pioneer Parkway to Townline Road in Peoria. This widened segment will connect to five-lane roadway both north and south of the segment.

—*US 67 in Schuyler County.*—IDOT requests an earmark of \$2.5 million for Phase II Engineering for US 67. The requested Federal earmark will fund Phase II engineering (preparation of contract plans) for the improvement of US 67 from north of Rushville to north of Illinois 101 in Schuyler County. Construction for this segment of US 67 is estimated at \$56 million.

—*Illinois 29 from Berry to Edinburg.*—IDOT requests an earmark of \$1.2 million for Preliminary Engineering for IL 29 between Berry and Edinburg, Illinois. Illinois intends to construct a four-lane highway for 19 miles on Illinois 29 between Rochester and Taylorville. A new four-lane highway will better handle traffic and improve safety. The State has committed \$40 million for engineering and construction of 12 miles of the new highway. The \$1.2 million earmark would fund Phase II engineering to prepare contract plans for the remaining 7-mile segment.

There will likely be other project earmarks that are requested by Illinois local governments and IDOT will support them as well.

#### TRANSIT MAJOR CAPITAL INVESTMENT

##### *Bus and Bus Facilities*

IDOT, the Illinois Public Transportation Association and the Regional Transportation Authority (RTA) (which oversees the planning and financing of transit in the six-county northeastern Illinois area) jointly request an earmark of \$28 million in fiscal year 2003 Section 5309 bus capital funds for Illinois. This joint request is a demonstration of our mutual interest in securing funding for essential bus capital needs throughout the State. A project list supporting this statewide request is shown in Attachment 2.

The request will provide \$8.2 million for downstate Illinois transit systems for the purchase of 72 buses and paratransit vehicles to replace overage vehicles and to comply with Federal mandates under the Americans with Disabilities Act. All of the vehicles scheduled for replacement are at or well beyond their design life. The request will also provide \$12.2 million to undertake engineering, land acquisition or construction for nine support facilities that will enhance efficient operation of transit services.

In northeastern Illinois, \$7.6 million will be used to purchase 64 heavy-duty buses and paratransit vehicles for Pace, RTA's suburban bus operator.

Illinois transit systems need discretionary bus capital funds since regular formula funding is inadequate to meet all bus capital needs. IDOT believes that Illinois' needs justify a much larger amount of funds than the State has received in recent years. Illinois receives 7 percent of the needs-based urbanized area formula funds but has received less than 2 percent of bus capital funds over the last several years. RTA ranks third in the nation in bus passenger trips, yet Illinois' share of bus capital has been far below shares received by other States with much less bus transit use.

##### *New Systems and Extensions—Metra Commuter Rail*

IDOT supports Metra's (the commuter rail operating agency serving the six-county northeastern Illinois region) request for an earmark of \$59.7 million in New Starts funding for continued work on three projects: the North Central Service, the Union Pacific West Line and the SouthWest Service. These improvements are in areas where significant population and development increases have already happened and are projected to continue well into the 21st Century. The projects will improve and extend commuter rail service which will in turn reduce highway congestion and contribute to attaining clean air objectives. Metra received \$54.4 million in fiscal year 2002 for the three projects, and U.S. DOT executed Full Funding Grant Agreements (FFGA) in November 2001 totaling \$319 million in New Starts funds.

##### *New Systems and Extensions—Chicago Transit Authority (CTA)*

IDOT supports the CTA's request for an earmark totaling \$90.4 million in New Starts funding—\$57.6 million to assist in rehabilitating the Douglas Branch of the

Blue Line and \$32.8 million to assist in upgrading the Brown Line. In fiscal year 2002, CTA received \$32.4 million in Federal funds for construction of the Blue Line and \$3 million to continue engineering for the Brown Line.

The funding requested for rehabilitating the Douglas Branch of the Blue Line would continue construction to completely rehabilitate or replace track, structure and ancillary systems to restore this 6-mile branch of the Blue Line to an acceptable level of service and to ensure its viability for the next 30 to 40 years. The CTA is seeking at least \$57.6 million in New Starts funds for fiscal year 2003. A FFGA for \$320 million in Federal funds was executed in January 2001 for the project.

The funding requested for upgrading the Brown Line would begin construction to extend station platforms to handle longer trains that are needed to serve the increasing demand along this line. Lengthening all platforms to handle longer, 8-car trains; straightening tight S-curves that slow operations and selected yard improvements will increase capacity by 25 to 30 percent. The CTA is seeking at least \$32.8 million in New Starts funds for fiscal year 2003. TEA-21 authorized final design and construction of the Brown Line (Ravenswood) project, and the fiscal year 2001 U.S. DOT Appropriations bill made available \$565.6 million for FFGAs for this and the Blue Line project described above. A FFGA for the Brown Line is expected by Summer 2002.

#### *New Systems and Extensions—MetroLink*

IDOT supports the Bi-State Development Agency's (the bus and light rail service operating agency for the St. Louis region) request for an earmark of \$60.45 million in fiscal year 2003 New Starts funding for extending the MetroLink light rail system in St. Clair County, Illinois. This funding would extend the line from Southwestern Illinois College to Scott Air Force Base (as contemplated in the existing FFGA). This amount includes funds (\$450,000) required by the Federal Transit Administration for Project Management Oversight. The Bi-State Development Agency expects to execute a \$60 million amendment to the existing FFGA for additional funding for the St. Clair County extension. The MetroLink system serves the St. Louis region in both Illinois and Missouri. MetroLink service has been a tremendous success and ridership has far exceeded projections.

#### TRANSIT FORMULA GRANTS

IDOT urges the Subcommittee to set appropriations for formula grants programs at the guaranteed levels set in TEA-21. IDOT also supports using general funds to fund transit programs beyond the TEA-21 guaranteed levels.

#### *Section 5307 Urbanized Area Funds*

The Section 5307 formula grants program for urbanized areas provides vital capital and operating assistance for public transportation. In Illinois, these formula funds are distributed to 18 urbanized areas which provide approximately 600 million passenger trips a year. Strong Federal funding support for transit service in urbanized areas is necessary to enable transit to continue the vital role it plays in providing urban transportation service.

#### *Section 5311 Rural and Small Urban Formula Funds*

The Section 5311 program plays a vital role in meeting mobility needs in Illinois' small cities and rural areas. Adequate Federal funding assistance for this program is very important to transit systems in Illinois. The needs in these areas are growing, yet their local revenue sources continue to be very limited. In Illinois, such systems operate in 50 counties and 6 small cities, carrying approximately 2.75 million passengers annually.

#### NEXT GENERATION HIGH-SPEED RAIL

IDOT urges the Subcommittee to earmark at least \$8 million of the Next Generation High-Speed Rail appropriation for Federal Railroad Administration (FRA) funding to expand a positive train control (PTC) system in Illinois. The North American Joint Positive Train Control Project currently under way in Illinois is intended to demonstrate a PTC system and develop rail industry standards for such control that could be used by all railroads. It is jointly sponsored and financed by the American Association of Railroads, FRA and IDOT. The PTC system installation from Springfield to Dwight, Illinois is nearly complete, and testing is scheduled for summer 2002 with a goal of FRA approval by the end of 2002. After completing testing, IDOT intends to extend PTC from Springfield southward to St. Louis. Illinois is in the process of utilizing \$70 million of State funds for development of high-speed rail in the Chicago-St. Louis corridor.

IDOT urges an appropriation of \$15 million for the Railway-Highway Crossing Hazard Elimination in High-Speed Rail Corridors program authorized in TEA-21 and an earmark of \$6 million for a rail-highway grade separation in the Chicago-St. Louis high-speed rail corridor at Pontoon Road in Granite City. Section 1103(c) of TEA-21 authorized \$15 million per year in general funds for this program. The Chicago-St. Louis corridor is one of the designated corridors under this program, and the State is working to minimize railway-highway crossing conflicts as part of efforts to implement high-speed rail service.

IDOT urges the Subcommittee to earmark \$2.5 million for upgrading at-grade warning systems from dual gates to quad gates on public crossings and to dual gates on private crossings in the Chicago-St. Louis high-speed rail corridor. Section 1103(c) of TEA-21 sets aside \$5.25 million of Surface Transportation Program funds each year for the Railway-Highway Crossing Hazard Elimination in High-Speed Rail Corridors program. The Chicago-St. Louis high-speed rail corridor is one of the designated corridors. The \$2.5 million would cover 50 percent of the department's share of upgrading 54 public at-grade crossings in the Springfield-St. Louis segment from dual gates, or in some cases only crossbucks, to quad gates. The funding would also assist in providing dual gates for 20 private at-grade crossings where there is no active warning system and would assist in closing crossings where possible.

#### AMTRAK APPROPRIATION

IDOT supports Amtrak's request for \$1.2 billion in general funds, the amount that Amtrak estimates will be needed to maintain existing nationwide operations. IDOT urges Congress to provide funds to continue current service until it develops a new national rail passenger policy and a clear plan for any changes to existing services as part of the congressional reauthorization of Amtrak. Chicago is a hub for Amtrak intercity service, and Amtrak operates 50 trains throughout Illinois as part of the nation's passenger rail system, serving approximately 3 million passengers annually. Of the total, Illinois subsidizes 18 State-sponsored trains which provide service in four corridors from Chicago to Milwaukee, Quincy, St. Louis and Carbondale. Amtrak service in key travel corridors is an important component of Illinois' multimodal transportation network and continued Federal capital and operating support is needed. As noted above, Illinois is in the process of utilizing \$70 million of State funds for development of high-speed rail in the Chicago-St. Louis Corridor and is looking to use those funds to leverage Federal and private funds. The North American Joint Positive Train Control project is under way in the corridor, and Illinois intends to implement high-speed rail service over a portion of the corridor in the near future. Illinois also has an additional \$20 million for improving passenger service throughout the State through track and station improvements.

#### AIRPORT IMPROVEMENT PROGRAM OBLIGATION LIMITATION

IDOT supports a fiscal year 2003 Airport Improvement Program (AIP) obligation limitation at the \$3.4 billion authorization level set in Aviation Investment and Reform Act for the 21st Century. The AIP program provides Federal funding support for airport preservation and improvements needed at general aviation and commercial airports. A total of 704 million passengers were enplaned at U.S. airports in 2000. While the events of September 11, 2001 sent shock waves throughout the aviation industry, passenger enplanements are expected to continue growing and reach one billion annually within the next decade. U.S. DOT Inspector General Kenneth Mead recently noted that passenger enplanements are expected to return to the pre-September 11 levels within 18 to 24 months. Airports must continue to make improvements to safely and efficiently serve existing traffic and this rapidly growing demand. Airports also have to make modifications to terminal areas for security purposes.

Adequate AIP funding is especially important for general aviation, reliever, commercial service and small primary airports. While most primary airports have been able to raise substantial amounts of funding with Passenger Facility Charges, smaller airports are very dependent on the Federal AIP program.

This concludes my testimony. I understand the difficulty you face trying to provide needed increases in transportation funding. However, an adequate and well-maintained transportation system is critical to the nation's economic prosperity and future growth. Your ongoing recognition of that and your support for the nation's transportation needs are much appreciated. Again, thank you for the opportunity to discuss Illinois' Federal transportation funding concerns.

ATTACHMENT 1.—ILLINOIS FISCAL YEAR 2003 INTELLIGENT TRANSPORTATION  
SYSTEMS DEPLOYMENT EARMARK REQUEST

Illinois requests an earmark of \$10 million in fiscal year 2003 Intelligent Transportation Systems (ITS) Deployment funds to assist in funding priority projects listed below. These projects make use of Intelligent Transportation Systems to enhance the operations, performance, safety, and security of travel on the Illinois highway system.

*Gateway System Safety and Security Integration—(\$1.6 million Federal)*

Add interface with Public Safety Access Points (PSAPs, the 911 call processing and emergency services dispatch centers) to create an integrated transportation and emergency services “infostructure” in Cook, DuPage, Kane, Lake, McHenry and Will counties in northeastern Illinois. The Illinois Gateway Hub of the Gary-Chicago-Milwaukee (GCM) ITS Priority Corridor Gateway Traveler Information System is operational as the collection and distribution hub for the sharing of real-time video, traffic, congestion, incident, construction and system condition data. Integration with the 911 centers will significantly link transportation operators and emergency service agencies to enhance security. This project also supports completion of the GCM Corridor fiber optic communications backbone linking critical facilities in northeastern Illinois and linking the Central Gateway, Illinois Gateway, Indiana Gateway and Wisconsin Gateway hubs to coordinate operations and emergency response plans in the major metropolitan centers of the three-State corridor.

*Surveillance Systems at Illinois Major River Crossings—(\$2.0 million Federal)*

Develop and deploy monitoring, detection, communications and information systems at critical infrastructure crossings on the Mississippi, Illinois and other rivers in Illinois. Priority river crossings serving Interstate highway routes have been identified in East Saint Louis, Rock Island/Moline, Rockford and other areas. Surveillance and communication technologies including video and detection would be deployed as appropriate based on an assessment of the threat and the security priority of the bridge. The project would include real-time communications links to Illinois Department of Transportation (IDOT) District and Central Office facilities and the GCM Corridor facility. Bridge security systems data would also be linked to traveler information systems including on-route Variable Message Signs and other media.

*Traffic Management and Control Centers—(\$2.4 million Federal)*

Enhance the operation of traffic management and software systems in St. Louis Metro East and Peoria, Illinois. Traffic Operations Centers including surveillance, detection, control and traveler information systems have been or are being deployed in both metropolitan areas to improve traffic flow, incident management, emergency response and system security. These systems will be designed with capability for statewide integration with the IDOT Operations Center at IDOT headquarters in Springfield through the Gateway System or similar software licensed to the department. Additional deployments are targeted in metropolitan areas where regional and project architectures are being developed, including Rockford and Quad Cities.

*Illinois Commercial Vehicle Information Systems and Networks—(\$280,000 Federal)*

Deploy key components of the Commercial Vehicle Information Systems and Networks (CVISN) Level 1 system in Illinois. This deployment would support the new Commercial Vehicle Operations Electronic One-Stop Shopping Business Plan coordinated by the Illinois Commerce Commission and the statewide deployment of PrePass electronic screening and Weigh-in-Motion systems at all weigh and inspection stations on Interstate highways in Illinois recently completed by IDOT. This project includes development and deployment of Commercial Vehicle Information Exchange Window, International Fuel Tax Agreement, International Registration Plan and electronic screening PrePass Clearinghouse Data Exchange functionality, and development and deployment of electronic screening on-line access. These capabilities will enhance documentation, monitoring and enforcement of commercial vehicle regulations to support increased safety and security of heavy truck shipments to, from and through Illinois.

*Chicago-Kennedy Expressway Closed Circuit TeleVision System—(\$570,000 Federal)*

Deploy a high resolution Closed Circuit TeleVision (CCTV) surveillance system along the Kennedy Expressway between the Chicago Loop and O'Hare International Airport to expand the existing limited system. Includes expansion of the existing communications infrastructure to control the Pan-Tilt-Zoom video cameras and to

share video with operating and emergency service agencies for enhanced security and incident response capabilities along this vital transportation corridor.

*Statewide Weather/Roadway Condition Reporting System—(\$500,000 Federal)*

Deploy the FORETELL/CARS weather and construction information system statewide. FORETELL/CARS would be integrated through IDOT's Central Office Bureau of Operations and includes advanced weather reporting, highway condition and incident reporting systems. FORETELL/CARS provides an operational highway management and traveler information system to serve rural and small to mid-sized urbanized areas throughout Illinois. The project would install video surveillance cameras at up to six Roadway Weather Information System stations throughout Illinois. Existing communications would be used to permit monitoring of the cameras at the IDOT Operations Center in Springfield.

*Bridge Control Automation System—Joliet, Illinois—(\$750,000 Federal)*

Automate and consolidate the six localized, motorized bridge controls in Joliet. Automation provides coordinated bridge operations. This project includes control modernization, expanded video surveillance of the bridges, wireless communications for control data and alarms, remote reporting and traveler information systems for improved security of these critical links.

*Virtual Weigh Station for Commercial Vehicle Enforcement/Security—(\$150,000 Federal)*

Deploy one virtual weigh station or over-weight vehicle enforcement commercial vehicle/heavy truck security screening. One high-priority location would be selected for prototype deployment. Virtual weigh stations use weigh-in-motion sensors, Automated Vehicle Location, Computer Aided Dispatch and communications technology to complement permanent weigh stations on Interstate highways to more effectively enforce weight restrictions and/or hazardous material regulations by screening passing vehicles with minimum disruption.

*Expand/Upgrade IDOT District 1 Variable Message Signs—(\$750,000 Federal)*

Deploy new and replacement Variable Message Signs (VMS) in Cook, DuPage, Kane, Lake, McHenry and Will counties in northeastern Illinois. The VMS would use current, standards-compliant sign and control technologies to take advantage of the capabilities of the upgraded Traffic Systems Center (TSC) traffic management system software. VMS provide for direct center-to-motorist communications for real-time, en-route management of expressway operations and enhanced security response including traffic routing information.

*Work Zone Management System—(\$150,000 Federal)*

Acquire portable work zone traffic management systems to include skid platform(s), tower(s), closed circuit video cameras, portable Variable Message Sign(s), non-intrusive detector(s), solar power, communications, data processing and control systems for deployment to enhance work zone safety at construction projects around Illinois. Use of the equipment would be scheduled according to planned construction and would be available for emergency/security deployment as needed.

*I-55/Lake Springfield Fixed Anti-Icing System—(\$850,000 Federal)*

Deploy a Fixed Anti-Icing System (FAIS) on the 700-foot long bridge carrying Interstate 55 over Lake Springfield in Springfield, Illinois. This project reduces the risk and increases safety associated with the high volume of trucks carrying hazardous material and the frequent icing conditions experienced on the bridge. This in turn would reduce the likelihood of a hazardous material spill into Lake Springfield, the water supply for nearly 150,000 people in the Springfield area. This project would provide real-time response to icing conditions through the use of advanced detector, anti-icing and control technologies.

ATTACHMENT 2.—FISCAL YEAR 2003 ILLINOIS BUS AND BUS FACILITIES (SECTION 5309) EARMARK REQUEST

Illinois requests an earmark of \$28 million in fiscal year 2003 Section 5309 funds for the projects listed below. The Federal funds would be matched with State or local funds.

*Northeastern Illinois Bus Request*

Six four heavy-duty transit and paratransit buses for Pace (the Regional Transportation Authority's operator of bus service in the Chicago, Illinois suburban region). This request is for \$7.6 million in Federal funds to replace 20 heavy-duty buses and 44 paratransit buses that have reached or are beyond their useful life.

These buses are in addition to those programmed for replacement with available Federal, State and local funds.

*Downstate Illinois Bus Request*

Forty heavy-duty transit and paratransit buses for Bloomington, Peoria, Madison County, River Valley (Kankakee), Rockford, Rock Island and Springfield, Illinois. This request is for \$6.3 million in Federal funds to replace 20 heavy-duty transit buses and 20 paratransit buses that have reached or are beyond their useful life. These buses are in addition to those programmed for replacement with available Federal, State and local funds.

Thirty two paratransit buses for nonurban areas. This represents the combined paratransit vehicle replacement request of the State's 30 nonurban (Section 5311) general public transportation providers. The request is \$1.9 million in Federal funds to replace 32 paratransit vehicles. Since most of the Federal Section 5311 funds go to operating assistance, the major source of funding for vehicle purchases is the discretionary bus capital program.

*Downstate Illinois Facility Requests*

*Bi-State Development Agency, Illinois—Illinois Bus Facility.*—This request is for \$3.9 million in Federal funds to begin constructing a new bus maintenance and storage facility on the same site as Bi-State's new light-rail maintenance facility in St. Clair County. Bi-State is in the process of completing the facility design and the estimated cost is \$22 million. The State and local agencies have already committed \$4 million for design. Additional discretionary bus capital funds will be requested in fiscal year 2004 to help fund construction.

*Bloomington, Illinois—New Garage.*—This request is for \$3.6 million in Federal funds for land acquisition, design and construction of a new administrative/maintenance facility. The Bloomington-Normal Public Transit System's current facility is in need of replacement. Previous renovations were done over 12 years ago and in addition, the transit system has expanded and needs more work space.

*Champaign, Illinois—Park and Ride Day Care Center.*—This request is for \$1.2 million in Federal funds for design and construction of a day care center at a Park and Ride location. The Champaign-Urbana Mass Transit District, in cooperation with the University of Illinois, has developed a plan to locate a day care center adjacent to the University's South Research Park. The center would help the University meet day care needs for employees who park and use public transit to the central campus. There is no parking available during the day at the central campus for these employees.

*Galesburg, Illinois—New Garage (Phase I).*—This request is for \$192,000 in Federal funds for Phase I (design and land acquisition) for a new administrative/maintenance facility. The city of Galesburg's public transit system needs a new facility. The city is currently renting a facility that is very old and too small.

*Madison County, Illinois—Facility Renovation.*—This request is for \$1.2 million in Federal funds to renovate the Madison County Transit District's administrative/maintenance facility (Building 1). The facility was built in 1987 and the interior of the building needs to be renovated to meet current operating and administrative needs. The parking lot needs improvement as well.

*RIDES, Illinois—Albion Facility.*—This request is for \$480,000 in Federal funds to construct a new administrative/maintenance facility in Albion, IL. The RIDES Mass Transit District (based in Rosiclare, IL) received fiscal year 2001 discretionary bus capital funding for Phase I (land acquisition and design) for this project and construction funding is needed.

*River Valley (Kankakee), Illinois—Transfer Center.*—This request is for \$560,000 in Federal funds to construct a bus transfer facility in downtown Kankakee. The River Valley Metro Mass Transit District received fiscal year 2002 discretionary bus capital funding for Phase I (design and land acquisition) for this project.

*Rock Island, Illinois—Facility Renovation (Phase I).*—This request is for \$600,000 in Federal funds for initial renovation of the Rock Island County Metro Mass Transit District's administrative/maintenance facility. The facility was built in 1983 and is in poor condition. The deficiencies were documented in a study undertaken by the district one year ago.

*Springfield, Illinois—Transfer Center Engineering.*—This request is for \$480,000 in Federal funds to undertake Phase I (design and land acquisition) for an intermodal transfer center to serve the Springfield Mass Transit District. The center would have space for transit buses, intercity buses and would house the Amtrak station. The current transfer location is on-street and creates a safety problem for passengers crossing the street to transfer buses.

PREPARED STATEMENT OF THE LOS ANGELES COUNTY METROPOLITAN  
TRANSPORTATION AUTHORITY (MTA)

Chairman Murray and members of the Subcommittee, on behalf of the Los Angeles County Metropolitan Transportation Authority (MTA), I appreciate the opportunity to submit testimony in support of Los Angeles County's surface transportation programs, projects and services. The MTA's fiscal year 2003 Appropriations funding request is designed to stimulate the economic growth of Los Angeles County and address the mobility needs of over nine million people.

The MTA's transportation partnership with the Federal Government has helped to strengthen this area's economy and move its people and visitors to work and recreation venues throughout Southern California. The successes experienced by MTA in recent years stem from a resolute Board of Directors, the leadership of former CEO Julian Burke and the productive partnership this agency has enjoyed with the Federal Government. This shared vision to improve the delivery of transportation projects and services has served to make Los Angeles County a clear example of how Federal funding can work. There is a firm foundation of fiscal responsibility and a dedication to serving the public that will help to build an even better system for the future.

Another area of focus on this year is establishing greater cooperation with the municipal operators, including the further development of a common transit pass. This pass is an interim step to the implementation of the Universal Fare Card. Additionally, we hope to secure funding from whatever sources possible for security efforts at our transportation facilities in Los Angeles County. It should be noted that we have also identified the need for \$24 million in security funding and enhancements for the MTA and the municipal operators. We hope to have access to any Federal funding for transit security measure which may become available either through Transportation Appropriations or other congressional efforts.

MTA'S FISCAL YEAR 2003 APPROPRIATIONS REQUEST

Specifically, the MTA's fiscal year 2003 Appropriations request is as follows:

*\$40.5 million in Section 5309 New Starts Funding.*—To complete the Federal Government's funding commitment to the Metro Rail North Hollywood Extension. Under the North Hollywood Full Funding Grant Agreement this is the last Federal installment of Federal funds for the project. This project opened in June 2000 on budget and ahead of schedule, and has exceeded its ridership projections with 147,775 weekday boardings on this line, the project is a true success story that demonstrates the strong working relationship between the MTA and the Federal Government.

*\$35 million in Section 5309 New Starts Funding.*—For use on the Eastside light rail transit project. This project, which replaces the subway project originally planned under the MOS-3 FFGA, will bring long awaited transit improvements to the East Los Angeles communities. This funding will be used for the final design of the tunnel for the project, land acquisition, and to enter into a design and construction contract for the project.

*\$4.5 million in Section 5309 New Starts Funding.*—For preliminary engineering on the Exposition Boulevard light rail transit project from downtown Los Angeles to the Mid-city area and eventually onto the city of Santa Monica. MTA has approved moving this project into preliminary engineering. The Mid-City/Exposition LRT Project is a passenger rail project running 6 miles with 10 stations from Downtown Los Angeles through Culver City and the City of Los Angeles.

*\$11.5 million for MTA and \$15 million for the Los Angeles Municipal Transportation Operators Coalition in Section 5309 Bus and Bus-Related Discretionary Funding.*—To assist the MTA in expanding its Metro Rapid Bus Program into communities throughout Los Angeles County and help the Municipal Operators in Los Angeles County expand and enhance their services. The MTA's Metro Rapid Bus Program, which carries 48,415 people per weekday, utilizes advanced technology to provide more efficient bus services, including limited stops, electronic message signs at stops and street signalization. This program is popular with transit riders and serves as an example for transit properties around the Nation. The MTA is requesting that \$5 million be appropriated for Metro Rapid Buses and \$6.5 million be appropriated for Metro Bus divisions, facility improvements to support the service sector efforts and to enhance the Bus Signal Priority system. The Municipal Operators set a figure of \$15 million for capital bus needs this year. The MTA supports that request.

*\$5 million in Intelligent Transportation Systems (ITS) Funding.*—For the further development of the "smart card" fare system in Los Angeles County. This universal

fare system will be used to create “seamless” transit services throughout the Southern California Region.

*\$2 million in Reverse Commute/Job Access Program Funding.*—As a member of the Los Angeles County’s Transportation and Human Services Executive Council, the MTA funding request will help implement a focused ridesharing matching program for employed Welfare-to-Work participants.

#### PROGRESS THROUGH PARTNERSHIP

In the last few years the MTA has refined its mission through a series of important Board decisions. These decisions have resulted in the selection of cost-effective and publicly supported projects in corridors previously slated for expensive heavy rail projects. The Board has also placed as high priorities the procurement of new, clean fuel buses and the development of greater efficiency in bus service. This past summer the Board adopted a long-range transportation plan to address the current and future growth in the region. We believe the MTA’s progress has been significant, and reflects the agency’s ongoing efforts with the Federal Government and other funding partners to provide safe and efficient transportation services to Los Angeles County residents. The MTA and its transportation partners in Los Angeles County have 1.7 million boardings a day. That is equivalent or greater than the population of most cities in the United States. We have come a long way in meeting the needs of this region, but we also have a great deal more to do.

#### *Metro Rail*

Most noteworthy during the last two years is the completion of the North Hollywood segment of the Metro Rail Red Line. It is my understanding that many in the country, and perhaps in the Federal Government, were unsure of the efficacy of this project. This segment of the rail system, however, was completed six months ahead of schedule and on budget. The opening of that portion of the Red Line resulted in a doubling of the ridership on the subway line of the rail system, which now has an estimated 147,775 weekday boardings. Federal funding has also played a part in advancing the next critical element of the MTA’s rail system—the Eastside light rail transit project.

#### *Bus Fleet*

It is my understanding that four years ago MTA had one of the oldest fleets in the nation. Many of the MTA vehicles were far past the average bus retirement age of 12 years. Today I can share that the average age of the MTA fleet is under 8 years and nearly half of the fleet, over 1,000 buses, are CNG clean fuel vehicles. The accelerated procurement plan implemented by the agency three years ago resulted in safer, cleaner buses, increased on time pull outs, fewer breakdowns, and staying on schedule to our waiting passengers. This workhorse of our transit system carries over 1.2 million boardings a day.

#### *Metro Rapid Bus Service*

Another achievement during the last few years was the successful demonstration of the Metro Rapid Bus in two corridors in the County. It is one of my priorities to expand this successful service as quickly as possible throughout the County. This program, which incorporates elements such as fewer stops (similar to a light rail line), signal synchronization and signal pre-emption, low floor vehicles for faster boarding, frequent buses and information technology at bus stops, is incredibly popular in Los Angeles. The two corridors of the program have seen a 25–28 percent increase in transit usage, with one-third of those boardings coming from new bus riders. The MTA Board has voted to expand the program to 21 new corridors throughout the county. This bus rapid transit network, coupled with the current bus and rail system, will greatly enhance access to and acceptance of transit services for Los Angeles residents.

#### CONCLUSION

The MTA appreciates the consistent support of the Subcommittee on Transportation for projects and services in Los Angeles County. The MTA respectfully submits this fiscal year 2003 Appropriations request as a means to help this agency continue to improve mobility and air quality, and encourage job development and economic growth in the one of the most densely populated and congested regions in the United States.

As the MTA continues to make significant and sustainable improvements to its delivery of transportation services, projects and programs, we look forward to continuing our funding partnership with the Federal Government. This partnership assists our efforts to provide for the safe and efficient movement of goods and people

in the Los Angeles basin. We believe that funding for Los Angeles County transportation is a sound investment for Los Angeles, California and the Nation.

Thank you for this opportunity to share our successes and fiscal year 2003 transportation funding requests with the Subcommittee.

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PREPARED STATEMENT OF THE METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY  
(MARTA)

INTRODUCTION AND EXECUTIVE SUMMARY

Atlanta is the one of the fastest growing metropolitan areas in the nation, and has played a key role in the economic vitality of the Southeast. Metro Atlanta, however, is now confronted by serious traffic congestion and air pollution problems, which threaten both the quality of life and economic health of the region. In order to provide improved transit service to this expanding region, the Metropolitan Atlanta Rapid Transit Authority (MARTA) is requesting Federal appropriations for three major capital projects in fiscal year 2003. These projects consist of the North Line heavy rail extension to North Springs, including the purchase of additional rail cars; the acquisition of clean fuel buses; and the Hamilton Clean Fuels Bus Facility.

MARTA respectfully requests the United States Senate Committee on Appropriations to designate \$16,363,780 in fiscal year 2003 FTA Section 5309 New Starts funds for the North Line Extension Project, including the purchase of associated rail cars. This project was authorized in TEA-21 and is the subject of a Full Funding Grant Agreement between the Federal Transit Administration (FTA) and MARTA. The requested funds will be utilized to partially fund the acquisition of new rail cars needed to serve this extension.

Additionally, MARTA has significant capital funding needs in support of our Bus and Bus Facilities program. As part of an effort to improve air quality in the Atlanta non-attainment area, MARTA is committed to the use of clean-fuel vehicles. To further this commitment, we respectfully request the Committee on Appropriations to allocate \$17,600,000 in fiscal year 2003 FTA Section 5309 Bus and Bus Facilities funds for the purchase of 41 clean-fuel buses and the development of the Hamilton Clean Fuels Bus Operations & Maintenance Facility.

The background, rationale and justification supporting these requests are set forth in the following pages.

NEW STARTS AND EXTENSIONS PROJECT REQUEST

The North Line Extension Project consists of the development of a two-mile, two-station extension of the MARTA heavy rail system to North Springs and the acquisition of 56 new rail cars. This project is authorized in Section 3030 (a)(3) of the Transportation Equity Act for the 21st Century, and has been implemented pursuant to a Full Funding Grant Agreement with FTA.

The North Line Extension—including the new Sandy Springs and North Springs stations—opened for revenue service as scheduled on December 16, 2000. The construction phase of this project is complete. The major remaining component of the project is the production, delivery, testing and acceptance of the new rail cars.

The original scope of the project included the purchase of 28 rapid rail cars. In late 1996, MARTA's reevaluation of expanded customer service demands and estimated patronage growth in this rapidly developing area resulted in a decision to increase the number of rail cars to be acquired to support this extension. Due to the projected increase in ridership and service requirements following the opening of the North Line Extension, the planned rail car requirement was increased from 28 to 56 passenger vehicles, a net increase of 28 cars. This project scope change was authorized in Section 3030 (d)(2) of TEA-21. FTA has approved the MARTA Rail Fleet Management Plan, which provides a detailed justification for these 28 additional vehicles. The new rail cars will allow MARTA to run longer trains to accommodate the additional passenger loads.

The 56 passenger vehicles that are associated with the North Line Extension are being acquired under a major contract that will procure a total of 100 rail cars. MARTA awarded this contract (CQ 312) to Breda Costruzioni Ferroviarie ("Breda"), a major Italian rail car manufacturer, in February 1998. The final assembly and testing of these new cars is taking place in Tucker, Georgia at an existing 120,000 square foot light industrial facility that has been leased and modified by Breda.

These new stainless-steel rail cars include a number of features to enhance customer convenience and safety, including ADA-compliant between car barriers, digital scrolling interior signs, a sporty new blue interior, with a more comfortable configuration for both seated passengers as well as standees. These state-of-the art rail

vehicles also employ an alternating current (AC) propulsion system that will provide greater reliability and be easier to maintain.

As of March 15, 2002, MARTA has accepted delivery of 36 of the new rail cars, which have been placed into revenue service and well received by our passengers. The status of the remaining 20 federally funded rail cars is as follows: Six of the 20 cars are in pre-revenue testing, with the remaining 14 cars undergoing final production at the Tucker facility. The current schedule calls for the 56th rail vehicle to be delivered and accepted for revenue service in August 2002.

Appropriations requested for fiscal year 2003 in the amount of \$16.4 million will be utilized to reimburse MARTA for the cost incurred to purchase the ten remaining rail cars included in the scope of this project.

#### *Financial Status*

The Full Funding Grant Agreement reflects a total (multi-year) Federal contribution of \$370,543,000 for the North Line Extension project. This funding level represents 80 percent of the total project cost of \$463,179,000. Of the total proposed Federal share, \$354,343,058 has been secured to date either through previous Congressional appropriations or FTA reobligations to the Project. This leaves a remaining Federal share of \$16,200,142 needed to complete this project. In anticipation of the one percent FTA deduction for Project Management Oversight (PMO), MARTA is requesting the slightly higher amount of \$16,363,780.

#### MARTA BUS AND BUS FACILITIES PROJECT REQUESTS

The Committee is respectfully requested to appropriate \$17.6 million in fiscal year 2003 funds, including \$10 million for the purchase of 41 clean fuel buses and \$7.6 million for the Hamilton Clean Fuels Bus Facility. These projects are described in greater detail below.

#### *Acquisition of Clean Fuel Buses*

Due to the serious air quality problems in the Atlanta region, MARTA has embarked upon a program to convert our bus fleet to clean fuel operation by fiscal year 2007. Through the combined assistance of the Congress, the FTA and the State of Georgia, MARTA acquired 118 compressed natural gas (CNG) fueled buses in 1996. Recently, MARTA received delivery of our second order of CNG buses, consisting of 206 low floor models manufactured by New Flyer Industries. Our clean fuel CNG bus fleet now includes a total of 324 vehicles, the 2nd largest CNG fleet in the nation.

For fiscal year 2003, MARTA is requesting a federal share of \$10,000,000 for the purchase of 41 clean fuel buses to replace aging non-clean fuel buses that will have exceeded their recommended useful life.

In 2001, MARTA placed an order for 140 clean fuel buses—including 130 fueled with CNG—with Orion Bus Industries. The first set of 70 buses under this order are due for delivery in late Spring 2002, with the second group of 70 buses targeted for revenue service by February 2003. To date, federal funding has been secured for 119 of the Orion buses on order, leaving a balance of 21 buses targeted for funding through fiscal year 2003 appropriations. This summer, MARTA plans on awarding our next procurement contract that would call for the delivery of 65 clean fuel buses in 2004, to replace buses that were acquired in 1991/92. Our fiscal year 2003 appropriations request includes funding for 20 of these buses.

The buses to be acquired will be a mix of 35-ft. and 40-ft. low-floor models designed to meet specific local service, community and operational requirements. Low-floor buses are wheelchair accessible, allow for easy and convenient boarding by all passengers, and are economical to operate.

All buses being replaced will exceed the minimum FTA replacement criteria of 12 years or 500,000 miles of accumulated service. The new buses will fully meet or exceed the requirements of the Americans with Disabilities Act (ADA), as well as, the Clean Air Act Amendments (CAAA). Currently, 46 percent of the 703 buses in the fleet operate on clean fuels, and there is an obvious need to convert the remaining 379 buses to clean-engine, low emission operation as soon as feasible.

MARTA is committed to provide bus service that is fully accessible to persons with disabilities. With the final acceptance of the buses in the recent New Flyer order, the Authority's fixed route bus fleet is now 100 percent ADA accessible.

MARTA is also acquiring low emission clean diesel buses in order to provide emergency-response capability, in the event needed, to respond to natural disasters throughout the State of Georgia. Because CNG re-fueling capability is limited in other parts of our state, a complement of clean diesel buses will enable MARTA to respond to such emergency public transportation needs, as needed, in a timely and

effective manner. The clean diesel buses will incorporate the latest low emission technology, and will meet or exceed EPA emissions requirements.

MARTA is also engaged in a strong partnership with the State of Georgia in terms of receiving matching funds to support our bus replacement program. Over the past two years, the Georgia Legislature, with the support of the Governor and the Georgia Department of Transportation, has allocated over \$4 million in State general funds to be applied to the non-federal matching share for the purchase of MARTA clean fuel buses.

#### *Bus Facilities Program*

MARTA is investing in the capital infrastructure necessary to support clean fuel bus operations. In 1996, a CNG Bus Maintenance and Fueling facility was constructed at Perry Boulevard with local MARTA funds prior to the Olympic Games. The major conversion of our Laredo bus operating and maintenance facility serving DeKalb County to support CNG operation was completed in March 2001. At present, two of our three bus operating facilities are able to support CNG operations. There remains, however, a critical need to provide clean fuel bus infrastructure in the southern portion of the MARTA service area.

The need to provide clean fuel bus capacity on Atlanta's southside has resulted in plans for the retrofit and expansion of MARTA's Hamilton Bus Operating & Maintenance Facility in southeast Atlanta. Due to the unique characteristics of CNG, various capital improvements must first be made to enable the safe operation and maintenance of CNG buses at the Hamilton site. These planned improvements include the construction of a CNG compressor station and refueling/service facility, the renovation or construction of the bus wash facility, new ventilation and heating systems in the maintenance bay areas, a CNG gas detection system, and partial modifications to the ceiling lights and electric conduit.

The currently estimated cost for this Phase, including design and project management costs, is approximately \$19 million, based on our experience with the recent Laredo Garage conversion project. It is likely that this estimate will undergo refinement as design progresses on this project. MARTA is requesting the Senate Committee on Appropriations to allocate \$7,600,000 in fiscal year 2003 Federal Transit Section 5309 funds to assist in financing these CNG-related capital improvements.

The capacity of the existing Hamilton facility is now limited to approximately 200 buses. Should additional funding be identified, there are conceptual plans to increase the capacity of the facility to accommodate up to 250 buses, as well as to improve the flow of buses into and out of this facility. There is also the potential for shared use of this facility, once it is modernized and expanded, for broader regional transit purposes and by other CNG vehicle operators.

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#### PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF RAILROAD PASSENGERS

Thank you for the opportunity to submit this statement. We support the Amtrak request for \$1.2 billion. We also support efforts to make the Federal Government a true funding partner with states to permit development of high speed rail corridors, for which many states already have well-advanced plans. Attached is a copy of my letter to Federal Railroad Administrator Allan Rutter, commenting on his written statement to the House appropriations subcommittee, which was virtually identical to his statement to you. I ask that this letter also be included as a part of the record.

We believe that the nation's existing intercity passenger rail network is "skeletal," that it should be preserved and improved in its entirety, and expanded when possible. The message from the traveling public supports this view.

#### *Current Ridership*

February was the sixth straight month in which the percentage change in travel from a year ago was sharply stronger on Amtrak than on the airlines. In spite of rising fares on Amtrak and heavy airline discounting, passenger-miles rose 8.6 percent at Amtrak but fell 10.3 percent for domestic airline service. (A passenger-mile is one passenger traveling one mile.) Amtrak ticket revenues rose 17.0 percent.

Amtrak's strong performance was not confined to the Northeast Corridor. For example, sleeping cars nationwide outperformed the overall system: passenger-miles up 13.5 percent; ticket revenues up 18.0 percent. Overall, 10 of Amtrak's 19 long-distance trains posted double-digit ticket revenue gains, and the single train which posted a decline is on a passenger-unfriendly schedule which will be significantly improved in the April 29 timetable.

As the attached graph indicates, for six straight months—September through February—Amtrak has significantly outpaced domestic air travel in terms of percentage

change from one year ago. Many of the smaller communities served by Amtrak's long-distance trains have borne the brunt of airline service reductions.

Obviously, air travel remains vastly greater in absolute volume. However, the general public—and many elected officials—increasingly realizes that our transportation system and our economy would be far less vulnerable if our passenger rail network was more completely developed.

#### *Ridership History*

Amtrak's historical ridership data understate the growth of true intercity ridership, particularly when 1979 is used as the base year. That year is misleading as a baseline because that was when the gasoline availability crisis artificially and dramatically increased Amtrak travel. Passenger-miles rose 22 percent to a level not achieved again until 1986. Ridership rose 13 percent to a level not achieved again until 1988. Also, since Amtrak's early years a number of daily commuters in the Northeast have been deliberately diverted from Amtrak trains to regional commuter trains, and a Chicago-Indiana commuter train Amtrak inherited from Penn Central was discontinued. The Amtrak Reform Council has used 1979 as a base year without explaining any of the above caveats.

#### *Subsidies and Costs*

Amtrak's \$1.1 billion operating loss in fiscal year 2001 includes depreciation on right-of-way property mostly, but not entirely, in the Northeast Corridor. In Fiscal 2001, this rose by \$54.9 million (or 28 percent)—from \$196 million in fiscal year 2000 to \$251 million and now represents about 23 percent of the entire operating loss. The increase in right-of-way depreciation in fiscal year 2001 equals 43 percent of the total \$129 million increase in the operating loss. No airline or bus company carries equivalent right-of-way costs on its books. This may or may not argue for someone other than Amtrak owning the Northeast Corridor, but anyone analyzing Amtrak's finances needs to be aware of this.

The claim is frequently made that other modes pay for themselves through trust funds. We believe the biggest "subsidy" in transportation is the mode-specific Federal approach to trust funds. By recognizing all air ticket taxes, and most gasoline taxes, as "votes" for more investment in aviation and highways, respectively, and by providing generous Federal matches for air and road projects and none for intercity passenger rail projects, the Federal Government insures a strong state investment bias against passenger rail. The fact that some states—including yours—have made significant investments absent meaningful Federal matches is testimony to the popularity of rail, and the broad realization even before September 11 that the rail choice is important to travelers today and will be even more important in the future. That future importance will become more obvious with continuing growth in both the cost of—and logistical obstacles to—building new highways and airports.

#### *Economic Performance*

The oft-quoted measure, "subsidy per passenger," does not measure economic efficiency on an intercity network in which different passengers make trips of widely differing lengths. The better measure would be operating ratio (i.e., costs divided by revenues) or perhaps subsidy per passenger-MILE. CHECK AMTRAK IG'S REPORT.

For example, the Southwest Chief, which links Chicago and Los Angeles via Kansas City, Albuquerque and Flagstaff, is the fastest Chicago-West Coast train. According to the table at page 96 of the ARC report, this train in fiscal year 2001 had the fourth best operating ratio among long-distance trains (behind Auto Train, Silver Meteor, and Empire Builder) but one of the highest subsidies per passenger, because it has a relatively small number of passengers traveling very long distances. (One quarter of the Chief's ticket is generated by just two city-pairs: Chicago-Los Angeles and Chicago-Fullerton.) Indeed, at Amtrak, subsidy per passenger corresponds more with average trip length than with economic performance.

The Association stands ready to do our best to provide any further information the committee may need.

Thank you for considering our views.

NATIONAL ASSOCIATION OF RAILROAD PASSENGERS,  
Washington, DC, March 13, 2002.

The Honorable ALLAN RUTTER,  
Federal Railroad Administrator.

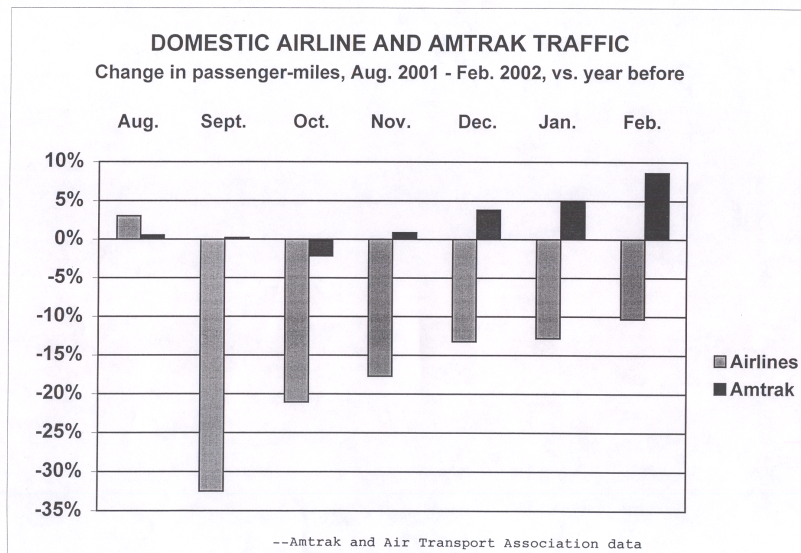
DEAR ALLAN: An impressive amount of work went into your written statement for House Appropriations, but in a number of ways—by errors of omission and commission—the statement seemed to undermine the case for a national passenger rail network, or even any Federal funding for intercity passenger rail. I wanted you to be

aware of how this came across to me and probably other rail passenger supporters who read your statement.

You acknowledge that “as demonstrated in the aftermath of September 11th, a strong argument can be made for flexibility and redundancy in this Nation’s passenger transportation system that could be provided by intercity passenger rail” (page 2). But, except for a backhanded reference on page 13, the statement is silent on the message the traveling public has been sending ever since about the desire for more rail travel—Amtrak’s September-January travel percentage changes far stronger than the airlines’, with January Amtrak travel up 5 percent (sleeping cars up 10 percent) and the airlines’ down 13 percent. The table below understates the shift: the airline decline is in spite of massive fare discounting and Amtrak’s growth is in spite of aggressive fare policies.

YEAR-TO-YEAR CHANGE IN PASSENGER-MILES HANDLED—AMTRAK AND DOMESTIC AVIATION

|                         | September<br>(percent) | October<br>(percent) | November<br>(percent) | December<br>(percent) | January<br>(percent) |
|-------------------------|------------------------|----------------------|-----------------------|-----------------------|----------------------|
| Amtrak .....            | + 0.2                  | − 2.2                | + 0.9                 | + 3.8                 | + 5.0                |
| Domestic Aviation ..... | − 32.5                 | − 21.1               | − 17.7                | − 13.2                | − 12.8               |



“Together these actions will reduce the quality of Amtrak service in 2002 and succeeding years. Amtrak’s management is to be commended for taking these steps on its own to conserve its cash resources, rather than asking for supplemental funding from Congress” (page 2). That is an interesting, and sad, sequence—praising Amtrak for reducing its service quality in the face of public demand for more and better rail service. The public increasingly has trouble reconciling the quick \$5 billion aid package for the airlines while Amtrak is left to “twist in the wind.”

[The only reason NARP did not urge Amtrak to seek and Congress to approve a supplemental is our belief that—in large part because of the Administration’s position—this effort would not succeed. Had Amtrak delayed “these steps” only to learn later that no supplemental would be forthcoming, the task of making it through the year likely would have changed from difficult to impossible.]

“... Some important metropolitan areas (i.e. ... Phoenix. . .) lack Amtrak service entirely” (page 3). Amtrak recently began service to Maricopa (near Phoenix) and ridership has grown quickly.

“... Only 25 to 30 of Amtrak’s stations would be regarded as realistic transfer points between intersecting routes, while 136 airports are classified as hubs and Greyhound claims 150 major terminals. . . If a prospective traveler can’t get there

from here' by a particular mode, that mode simply can't compete for his or her business" (page 4). These comments, and the absence of any mention of Amtrak's Thruway bus connections, seem odd coming from a Department which in many other contexts vigorously promotes "intermodality." Your subliminal message seems to be, "Amtrak is too small, so let's make it even smaller."

Thruway's very important role in California, Florida and elsewhere deserves recognition. Longview, Texas, is a major Amtrak stop partly because Thruway connections there make possible trips like Chicago-Houston and Chicago-Shreveport. In addition, there are the growing number of intermodal terminals where passengers make their own non-through-ticketed transfers between Amtrak and other forms of public transport (intercity and local bus and rail).

A few observations about on-time performance:

- A 30-minute tolerance on a long-distance trip implies many late trains where passenger dissatisfaction is minimal; someone traveling from California to Chicago likely will not be bothered by 40 minutes of lateness (or even longer, if the staff treats them well and they don't misconnect).
- Passenger (and freight) service, at least in early fiscal year 2001, was still recovering from the debacle that immediately followed the NS/CSX splitup of Conrail.
- Ex-Southern Pacific lines (used by Sunset Limited, Coast Starlight, California Zephyr) deteriorated in years before the Union Pacific acquisition. Since then, an above-normal amount of track work has been necessary. This creates severe problems on heavily-used, single-track lines, but not on a permanent basis. There is concern, however, at the huge number of slow orders now in place on Union Pacific—covering 8 percent of the Los Angeles-Portland route.

Comparisons of Amtrak running times with those of the mid-1950s—a favorite device Joseph Vranich uses to trash Amtrak—miss the point. Today's travelers don't care about 1950s schedules. In any event your 15½-hour New York-Chicago running time was for the all-Pullman Broadway Limited that used a shorter route and skipped most of the intermediate stops Amtrak's trains serve.

"Amtrak's average fares were approaching 50 percent higher than those of air." There should be a caveat on statements like this. Amtrak's average fares include sleeping car passengers, Auto Train travelers—some in sleeping-cars but all transporting automobiles, and business travel in the NEC where arguably Amtrak should be charging "what the market will bear." We certainly agree that coach travel should be affordable in the NEC) but that implies a need for larger operating grants, which we support but which do not seem widely popular at the White House. We also think there is a huge, untapped market for economical sleeper rooms, equivalent to the old slumbercoaches Amtrak inherited and ultimately discontinued.

The reference to "significant market shares" (page 7, first full paragraph) implies that routes without "significant market shares" are not of value. Long-distance routes (perhaps excepting New York-Florida) will never have "significant market shares" but we think they are nonetheless justified if well used. There are issues of medical inability to fly, fear of flying, desire for the rail travel choice, service to smaller communities with limited or no public alternatives, and maintaining the foundation needed for economical future development of commuter rail and corridor services.

"The Corporation today generates about 800 million fewer passenger-miles than it did at its 1991 peak and this decline occurred during a significant expansion in total passenger mobility in the U.S."

It would be more correct to say "in fiscal year 2001 generated" rather than "today generates," and then to note the post-9/11 trends. This would have been a logical place to report the post-9/11 trends reflected in my first item and the table. As you know, one major reason Amtrak travel volume is not greater is the big fare increases imposed in 1995–96 in an apparently successful attempt to fill a budget hole.

"Average trip lengths have decreased from 288 miles in 1991 to 235 miles in 2001—a drop of one-fifth. This means that fixed per-trip costs, like reservations and ticketing, are spread over fewer miles." This is a stretch. It ignores that much of the growth has come in the Capitol and Pacific Surfliner Corridors where trains are unreserved (except in Surfliner business class) and res/ticketing costs are low because most trips are simple. Fiscal year 2002 may see an increase in average trip length.

"In the referenced chart, 'revenues' are total core revenues less State subsidies and other governmental payments" (footnote, page 11). That fact really belongs in the heading to the table. The decision not to credit Amtrak with state payments is significant (and questionable—much better to show both farebox and state payments

as in your page 18 table), and many readers will have seen similar information displayed with state payments.

"Train-miles have risen more than twice as fast as passenger-miles. . . Amtrak's average trainload of passengers has declined" (page 12). So what? As you note, the growth of short-distance trains is a major reason. They are shorter trains. (Another reason is the Pennsylvanian, a passenger-unfriendly schedule introduced to accommodate express, which Amtrak—however belatedly—is planning shortly to change to a more passenger-friendly schedule.)

The page 12 discussion of load factor should include any data available from fiscal year 2002, since this probably will show a reversal of the trend. Load factor, of course, is less significant on trains than on planes and buses because capacity adjustments produce fewer cost changes on trains (in contrast with doubling the cost every time a plane or bus schedule adds a second section). Rail transit typically has relatively low load factors because of lots of empty seats are standard even in the peak hour (outlying portions of a run and reverse-peak directional service) but this does mean the service is inefficient. Load factor also is referenced at the top of page 18 but, interestingly, is not shown in the table at the bottom. Segmented by business unit, I believe Intercity—dominated by the long-distance trains—consistently has the highest load factor.

In discussing overnight services, you state: "Their primary market is evidently for personal travel; the size of any potential business market is unknown because of Amtrak's chronic on-time performance difficulties and schedules that have deteriorated, in many cases markedly, since the mid-1950s" (page 15). Here we go ago with the 1950s comparison. We know that plenty of business travel still existed in the 1960s, and it is quite likely that at least the New York-Florida run and probably other runs have business travel today. If Amtrak has done no surveys recently on this, they should.

"Only in terms of annual passenger-trips do the corridors assume a preponderant role; because of repetitive travel over shorter distances, this statistic does not indicate the number of individuals making use off the various Amtrak services yearly" (page 17). I can recall no analysis of airline, auto or intercity bus travel which references "repetitive travel" this way, yet airlines and Greyhound have repetitive riders. The phrase seems to imply that, well, the Amtrak number really isn't that significant because it reflects some people traveling repetitively.

"The long-distance trains average only one round-trip daily, speeds well below 55 miles per hour. . . ." (page 17). Only a closely-reading lawyer would assume that "well below 55" refers to average speed. Top speeds of 79 and 90 mph mean that on many given segments trip times are impressive.

"The leading causes of Amtrak's weakened financial condition are crosscutting cost drivers—those costs that impact every train on every route" (page 19). Readers will be eager to hear the definition and discussion of "crosscutting cost drivers."

I look forward to continuing the discussion about insuring the future of our national passenger rail network.

Sincerely,

ROSS B. CAPON,  
*Executive Director.*

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#### PREPARED STATEMENT OF THE NATIONAL CONGRESS OF AMERICAN INDIANS

The more than 200 member tribal nations of the National Congress of American Indians urges the Subcommittee on Transportation Appropriations to reject any and all cuts to the Indian Reservation Roads (IRR) program.

Tribal governments rely on IRR funding to supply the dollars needed to construct and maintain the public roads that provide access to and on Indian reservations, Indian trust lands, restricted Indian lands, and Alaska Native villages. Unfortunately, this funding is woefully inadequate.

IRR comprise up 2.63 percent of all existing roads in the Federal-aid highway system, but historically they have received less than one percent of all Federal highway dollars. On average, only \$500 per mile—and in some cases, as little as \$80 per mile—is available for maintenance. In comparison, an average of \$2,200 per mile is spent maintaining other Federal roads, and an average of \$2,500 to \$4,000 per mile is spent by States.

The fact that fully 66 percent of the roads serving Native American communities are not even paved has a direct impact on basic services to tribal members. These roads are primarily dirt and clay, ungraded, and deeply rutted. During spring and fall rains, they turn to mud or wash out, forcing people to walk for miles to get to their homes. Even more troubling are these seasonal disruptions to emergency

health care and law enforcement services and to the availability of heating fuel, water, and food delivery.

We all know that the efficient and safe movement of goods and services is a basic building block of a viable economic structure. It goes without saying that having the type of unreliable transportation infrastructure that is the norm in American Indian and Alaska Native communities has a direct negative impact on the ability of tribal governments to attract economic development.

During the TEA-21 debate, NCAI and tribal governments fought hard to convince Congress to increase funding for Indian roads and bridges. In the end, tribes received an increase from approximately \$191 million a year to \$275 million, which is still far less than what is needed to address the deplorable road conditions in Indian Country.

Unfortunately, this increase was in large part offset by a new cut imposed on IRR funding. TEA-21 for the first time extended the "obligation limitation" to the Indian roads allocation. Under the obligation limitation, the Federal Highway Administration (FHWA) is required to withhold a certain percentage of the total IRR obligation authority at the beginning of each fiscal year, so that it can be redistributed at the end of the fiscal year. When the obligation limitation was expanded to the IRR program in TEA-21, Congress failed to authorize IRR to participate in this end-of-the-year redistribution. As a result, funding that was expressly authorized for tribes is now being diverted to States for their transportation projects. Obviously, our member tribes consider this to be grossly unfair.

In recognition of this untenable situation, last year Congress approved and the President signed a fiscal year 2002 Transportation Appropriations Act that provided funds to offset the obligation limitation on the IRR and thus resulted in a final funding level of approximately \$275 million, the full authorization level.

We are extremely concerned that the budget request for the Transportation Department eliminates the additional IRR funding contained in the fiscal year 2002 appropriation, which means that we would see a funding level of approximately \$240 million.

Based on recent information provided by the Bureau of Indian Affairs, the estimate of need based on a grossly out of date IRR inventory is over \$11 billion, not including the cost of project engineering (planning, survey, design, environmental, archaeological, and perfection of rights-of-ways) or the cost of constructing new or existing bridges or other eligible transportation facilities allowed by the BIA, such as construction of non-BIA jurisdictional routes, transit facilities, enhancements, and matching to State and local projects.

Today, Indian Reservation Roads are among the worst maintained in the United States. Our unreliable transportation infrastructure hurts our ability to attract businesses, provide emergency services, and bus our children safely to school. The IRR program needs an increase, not a decrease, and we urge you to support an appropriation to offset any negative effect of the obligation limitation on its authorized level of \$275 million.

On behalf of NCAI, the oldest, largest, and most representative tribal organization in the United States, thank you for your past support of the IRR program and for your consideration of our views.

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#### PREPARED STATEMENT OF THE NEW YORK STATE POLICE

Good morning Senator Murray. I am James W. McMahon, Superintendent of the New York State Police. I would like to thank you and the entire Subcommittee on Transportation for the opportunity to discuss with you a topic which I consider of the utmost importance in my capacity as both the Superintendent of the New York State Police, and as General Chair of the State and Provincial Division of the International Association of Chiefs of Police. Issues of highway safety have profound impacts on communities in New York State and across this country. Our roads tie those communities together, move our commerce and thereby unite us. Unfortunately, our roads and highways also kill more than 40,000 mothers, fathers and children each year, and the majority of those deaths are needless and preventable.

Highway safety was one of the founding missions of the New York State Police in 1917, and the importance of that mission has never been greater. The New York State Police is not a highway patrol, as such. It is a full service police agency, providing general enforcement and police services to all of New York's rural communities, as well as support services to the State's urban police forces, including a criminal detective force of 980 members. But there is no mission more important, even today, than the safety of our roads and highways, because there is no issue which impacts the lives of the average citizen more often and more dramatically.

We are proud of our highway safety record in New York State. The year 2000 (the last year for which complete statistics are available) was our safest in history, dating back to the early 1920s. Our highway fatality rate of 1.15 deaths per 100 million vehicle miles of travel, was among the lowest nationally, and the percentage of those deaths which were alcohol related was second lowest in the nation. Having said that up front, I can attest to you that those life-saving records could not have been achieved without strict and targeted enforcement, which was enhanced by federal funding to the States through the National Highway Traffic Safety Administration (NHTSA). The same is true of other States with low fatality rates.

New York's highway safety enforcement strategy is data driven and results oriented. We apply significant resources to target three main areas: excessive speed, impaired driving and failure to wear safety restraints. As I'm sure is the case in other States, these persistent threats are responsible for the majority of highway tragedies. The first two, alcohol or drug impairment and speeding, are causative factors. The third, the use of safety restraints, is the number one factor in preventing deaths or serious injuries, regardless of causation.

Let me begin by talking about the last factor first, because it is the easiest way to improve safety, and it affects the human outcome in all crashes. To do so, I will provide some history and detail of our successful Buckle Up New York Campaign, and the impact this program has had on the safety of all New Yorkers.

New York State was the first State in the nation to enact a mandatory safety belt law in 1984. The law became effective January 1, 1985. It was a primary law from the start, enabling police to stop violators solely for not wearing a safety belt. Prior to the law taking effect, only 12 percent of motorists wore seat belts, and in 1984, 1,012 unrestrained occupants were killed on New York's highways. The year the mandatory seat belt law took effect, seat belt use jumped to 50 percent and the number unrestrained deaths dropped to 644. New York's mandatory seat belt law saved 368 lives that year alone.

Over the next 5 years, compliance with the new law rose steadily to about 70 percent. As with the rest of the nation, these increases in seat belt use were largely the result of programs at the federal and State levels, which placed their main emphasis on education and awareness. But these campaigns reached a level of diminishing returns in New York State by the mid-1990s, and the steady increases in belt use stagnated at 70–75 percent between 1994–1998. At the same time, we in the State Police began to notice a recurrence of crashes where lives were needlessly lost because the occupants were unrestrained, and we began discussions about how to increase the use of safety restraints.

Shortly thereafter, I had discussions with NHTSA administrators and Mr. Chuck Hurley and Ms. Janet Dewey of the National Safety Council's Air Bag and Seat Belt Safety Campaign, about developing a strategy to get the remaining 25 percent of New York motorists buckled up. We studied strategies employed elsewhere in this country and abroad, and determined that the only strategies which were effective anywhere in the world, were those which employed a zero-tolerance enforcement approach. We researched the New York State crash data by location, age and gender to learn about specific target groups. Lastly, we researched the field of occupant safety regarding these target groups, including a landmark literature review by the Meharry Medical College, which identified a significantly at-risk population of young African-American males. Subsequently, we established a goal of 85 percent safety belt use by the end of the year 2000, and developed a strategy of highly visible zero-tolerance enforcement. We presented the plan to NHTSA and asked their experts to estimate the safety impacts of increasing belt use from 74 percent to 85 percent in 18 months. NHTSA estimated that if successful, 148 lives and \$400 million in insurance and medical costs could be saved. With this objective in mind, the Buckle Up New York Campaign was instituted in May 1999.

We in the State Police knew from the start that we could not achieve this objective alone. As is similar in other States, New York State Troopers accounted for 47 percent of all occupant restraint enforcement, 55 percent of all speed enforcement, 23 percent of all impaired driving enforcement and 41 percent of total traffic enforcement in the State, yet comprise just 5.9 percent of police manpower. Despite this enforcement presence, an even more extensive law enforcement commitment would be necessary to change public behavior. The participation and cooperation of local and county law enforcement would be critical.

In some cases, local law enforcement agencies did not, consider traffic enforcement a primary mission. In order to involve them, we needed a complete package. We had an attainable goal. We developed a workable strategy, which involved 3 annual enforcement waves, which supplemented year-round enforcement efforts. These waves would be 10 days long and preceded by 10 days of heightened media. But we knew the local agencies would not, and in most cases, could not participate without addi-

tional funding for the additional enforcement. For this we needed the assistance of NHTSA, through the offices of our Governor's Traffic Safety Committee.

When Governor George E. Pataki, nominated me as Superintendent of State Police, he provided me a mandate to continue to improve the safety of New York's highways and communities by working in cooperation with local authorities. That is a mandate I take very seriously. But while the governor had made great investments in improving the capability of the New York State Police to safeguard the highways, including 100 additional troopers, new electronic breath test instruments and state-of-the-art speed enforcement instruments, I knew that in this case fulfillment of that mandate meant improving the capability of other agencies. Only by ensuring funding for the county and local agencies, could we improve the safety of our roads and highways statewide.

NHTSA and the Governor's Traffic Safety Committee responded in dramatic fashion, providing funding to any agency willing to join the enforcement effort. A streamlined funding application procedure was implemented through a State Police law enforcement liaison assigned for this purpose. Letters were sent to each police chief and sheriff, and each was visited personally to enlist his or her support. In addition, an extensive child passenger safety program was implemented in partnership with other State agencies, local law enforcement and other safety practitioners, to improve the safety of our smallest and most vulnerable vehicle occupants. With the support of available federal funding, a comprehensive Buckle Up New York Campaign began to take shape.

In order to build greater support in minority communities, we partnered with NHTSA to host a diversity forum at the New York State Police Academy. In attendance were representatives from the NAACP, ACLU, Local Urban Leagues, educators, and leaders of faith-based communities, some of whom could not have attended without the financial assistance provided by NHTSA. Attendees were informed of the findings of our research and asked to be part of the solution. The result was great community support for our enforcement efforts and relationships which continue to this day.

The second phase of this outreach involved improving the capability of the economically disadvantaged to safeguard their children. While I consider failure to protect child passengers gross neglect and strict enforcement child seat laws is warranted, it is also necessary to ensure that those without the financial means to protect their children, are provided with the means to do so. Once again, we turned to our partners at the Governor's Traffic Safety Committee and NHTSA for federal funding, and today a statewide mechanism is in place to ensure that no care-giver will be denied access to child restraints due to their economic status. This has significantly improved our relationships in minority communities.

Since May 1999, seven Buckle up New York enforcement waves have been conducted, resulting in the issuance of more than 300,000 tickets for failure to wear restraints. More than 9,600 of those tickets were for child restraint violations. The statewide average safety restraint use rate has been measured as high as 88.3 percent, a significant increase from the 74 percent recorded prior to the first wave. Most importantly, 141 lives were saved between 1999 and 2000, nearly reaching NHTSA's estimate of 148.

Throughout the campaign, the involvement of local and county level enforcement grew, which contributed significantly to the outcome. During the first wave, local and county enforcement accounted for about a third of the enforcement effort, but by the end of the seventh wave, accounted for 42 percent. More than any other component, this involvement was critical to the successful and life-saving outcome of the program, and could this not have occurred without significant federal funding.

Please allow me to summarize the main points of our recent experience in increasing safety restraint use in New York State, because I believe the effective strategies used in the Buckle Up New York Campaign, with the support of critical and targeted funding provided by NHTSA, can be replicated in States nationwide.

First, proper use of seat belts and child restraints is the most effective way to prevent needless deaths and debilitating injuries, regardless of the actual cause of any motor vehicle crash. These tragedies exact a great cost and result in widespread suffering in American society, and buckling up is the easiest means of prevention.

Second, enforcement works. When applied across the board by State, county and local agencies, the potential of receiving a ticket for not wearing a seatbelt is the impetus required to achieve rates of seat belt use in excess of 80 percent.

And third, the additional enforcement required to significantly raise seat belt use and thereby save lives and prevent injuries, cannot be accomplished without federal funding. This is especially true in light of recent demands for enhanced security efforts, and their fiscal implications on State and local budgets. Without the federal assistance, lives will continue to be needlessly lost on our highways.

While we have not yet solved the problem of unrestrained occupants in New York State, I believe we have found the formula to address it. We witnessed nearly a 10 percent reduction in fatalities in New York State since implementing Buckle Up New York. It is a model which we adopted from others, and it can work elsewhere in America as well.

In the time remaining, let me turn to the other two highway safety concerns, impaired driving and excessive speed.

There has been great progress made in reducing the incidence of impaired driving in the U.S. in recent years, but I fear that apathy is setting in, and today we are at risk of relinquishing some of the gains made. In highway safety, apathy equals lives lost. The downward trend in impaired driving deaths has leveled off, and more attention and innovation may be necessary to prevent greater loss of life.

Impaired driving is a continual concern in New York State, particularly where our youngest drivers are concerned. Drivers under age 21 make up just 5 percent of the licensed drivers, but are involved in 14 percent of fatal crashes in New York. Compounding the problems, recent census data indicate that the number of licensed drivers under age 21 in New York State will grow by 25 percent in the next decade. Therefore, if nothing is done, more young lives will be lost.

We are attempting to apply the strategies employed in the Buckle Up New York Campaign to impaired driving and underage drinking. We are developing joint enforcement operations with county and local enforcement agencies and the State Liquor Authority to improve enforcement of underage consumption and sale of alcoholic beverages. In addition, we have the benefit of a State mechanism to fund local impaired driving countermeasures. A State law titled Special Traffic Options Program for Driving While Intoxicated (Stop-DWI), returns fines imposed on impaired driving violators to county level administrators to fund additional enforcement efforts. This law, enacted in 1982, is one of the main factors contributing to New York's success in combating impaired driving. As in the effort to improve safety restraint use, coordinated statewide efforts offer the greatest promise to preventing impaired driving, and continued funding will be necessary to support those efforts.

In the last area, speed enforcement, I dare to say that law enforcement is currently losing the battle. Non-compliance with speed limits is widespread in New York State and nationwide. Like no other law, many behave as though it is their inalienable right to speed, and unfortunately for too many, the results are tragic. In New York State, 24 percent of fatalities in 2000 were attributable to excessive speed. Addressing the issue will take a large scale programming and additional resources to provide new technologies and the staffing necessary to implement them.

In closing, I would like to say what I have said to many recruit troopers at the State Police Academy. It is hard to prevent a murder which occurs behind closed doors, but it is relatively easy to prevent a murder on the highway by stopping a drunk or speeding driver. So too, it is relatively easy to prevent the needless death of an occupant who does not buckle up or of a child who's safety is unconscionably neglected by being left unrestrained. And although we may not remember the faces of the people we save, we certainly do remember the faces of those we fail to save. Both are equally real, and it is incumbent upon us to prevent the latter.

Senator Murray, that concludes my testimony. Again, I want to thank you and the entire committee for this great opportunity to express my views on highway safety. I would be happy to answer any questions you or the subcommittee may have.

**TOTALS - WAVES I - VII COMBINED**

Number of checkpoints conducted: 4,618

| <u>Agency</u>    | <u>Seat Belts</u> | <u>Child<br/>Restraints</u> | <u>Total</u>   |         |
|------------------|-------------------|-----------------------------|----------------|---------|
| State Police     | 102,474           | 2,010                       | 104,484        | (32.4%) |
| NYPD             | 80,355            | 2,917                       | 83,272         | (25.8%) |
| Police & Sheriff | <u>130,477</u>    | <u>4,728</u>                | <u>135,205</u> | (41.9%) |
| <b>Total</b>     | <b>313,306</b>    | <b>9,655</b>                | <b>322,961</b> |         |

Statewide compliance rate:

|                       |       |                        |       |
|-----------------------|-------|------------------------|-------|
| Pre-enforcement waves | 74.6% | Post-enforcement waves | 88.3% |
|-----------------------|-------|------------------------|-------|

**FIRST WAVE RESULTS - MAY 22 - 31, 1999**

Number of participating agencies: 330

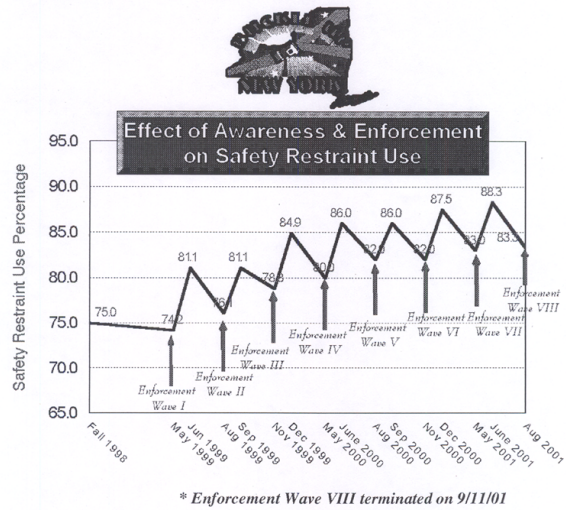
Number of checkpoints conducted: 566

State Police checkpoints: 119

| <u>Agency</u>    | <u>Seat Belts</u> | <u>Child<br/>Restraints</u> | <u>Total</u>  |         |
|------------------|-------------------|-----------------------------|---------------|---------|
| State Police     | 12,083            | 308                         | 12,391        | (27.5%) |
| NYPD             | 17,035            | 636                         | 17,671        | (39.2%) |
| Police & Sheriff | <u>14,504</u>     | <u>518</u>                  | <u>15,022</u> | (33.3%) |
| <b>Total</b>     | <b>43,622</b>     | <b>1,462</b>                | <b>45,084</b> |         |

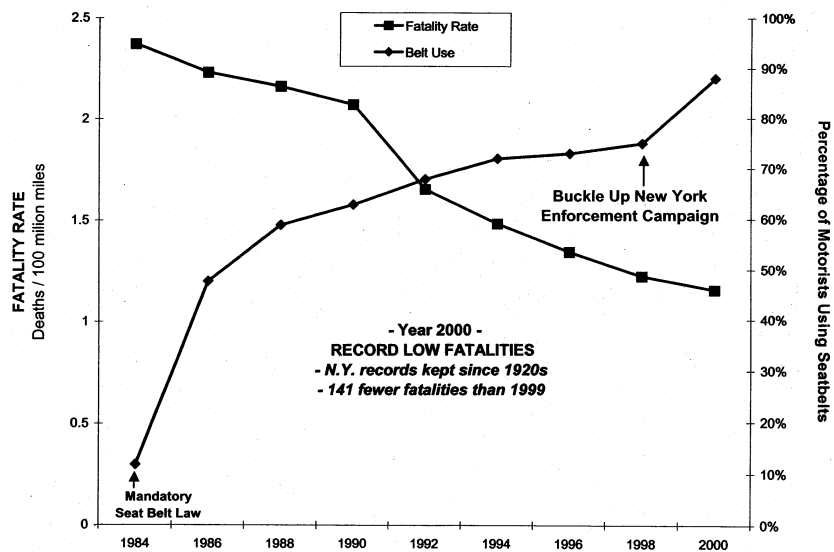
Statewide compliance rate:

|                      |     |                       |     |
|----------------------|-----|-----------------------|-----|
| Pre-enforcement wave | 74% | Post-enforcement wave | 81% |
|----------------------|-----|-----------------------|-----|



This graph illustrates the effect of the Buckle Up New York Campaign enforcement waves on seat belt use. Seat belt use surveys are conducted before and after each wave of highly visible enforcement. More than 100 surveys are conducted, and at least one is conducted in each county.

## NEW YORK STATE A History of Safety Restraint Use & Highway Safety



## PREPARED STATEMENT OF THE RAIL TRAVEL CENTER

## SUMMARY

We support Amtrak's request for \$1.2 Billion in capital and operating funds for fiscal year 2003, but

We urge that the fiscal year 2003 equipment repair program be immediately implemented in fiscal year 2002.

We support the experimental franchising of a selected Amtrak route and/or service.

We do not support the separation of the Northeast Corridor (NEC) from the control of Amtrak.

We oppose exclusive State funding of regional services.

We absolutely believe the Federal Government must continue to provide meaningful capital and operating grants if any rail system is to survive, even the regional corridor services.

Rail Travel Center has operated tours by train worldwide since 1982. We have consistently marketed Amtrak travel as a part of that program and therefore have an experienced perspective on the current Amtrak situation. Too often, discussions of Amtrak are conducted without input from those who actually sell and use train travel. This situation becomes even more urgent in light of Amtrak's February 1, 2002 press release, which suggests the carrier might end its national network by dropping all long-distance trains as early as October 1, 2002.

We believe Amtrak must receive the \$200 million it has requested to preserve its connected national network, and that now also is the time to initiate measures ensuring passenger train services continue to operate in the long-term. Therefore, we support bringing the equipment repair portion of Amtrak's \$820 million fiscal year 2003 capital request forward into fiscal year 2002. At present, the company gradually is losing its operating fleet due to the effects of deferred maintenance, ironically just as demand is trending dramatically upward. In the longer term, we support an experimental program of franchising selected Amtrak routes and services to bring about better marketing, operations and cost-recovery.

As we note below, the problem with Amtrak is not a lack of potential business. Rather, Amtrak's troubles derive in large measure from a lack of equipment to meet the demand already on offer. Worse, Amtrak's management too often has compounded the equipment shortfall by refusing to use assets it already possesses. We will outline our concerns with these practices below, in a section we characterize as "Institutionalized Pessimism".

We also want to reassert our deep respect for Amtrak, which has been a good business partner to Rail Travel Center. We know for the last thirty years its managers have been forced to grapple with virtually no meaningful capital investment outside the Northeast Corridor (and on a very few regional lines). This has fostered a corporate culture of endless cost cutting combined with a tight focus on the needs of the NEC, where Amtrak saw its most likely source for immediate funding. That attention has come at the expense of the national system. We appreciate our many long-term relationships with fine Amtrak employees, but we also recognize that Amtrak, as an institution, has flaws which must be addressed.

Rail Travel Center is concerned about the harmful potential in a universal implementation of the recommendations of the Amtrak Reform Council (ARC). Although we set forth our chief differences in some detail below, we do not oppose all ARC recommendations. In particular, we believe the ARC is correct in urging at least some franchising (partial privatization) of Amtrak services. If done correctly, this could reverse the past Amtrak inclination to avoid opportunity and risk, lead to a dramatic increase in passenger train ridership (a trend already underway), and ultimately reduce the need for government support. Our analysis of these views follows.

## DISCUSSION OF THE ARC REPORT, AMTRAK MARKETING DIFFICULTIES, AND THE ARC SUGGESTION FOR AMTRAK ROUTE FRANCHISING

The worldwide experience with passenger train franchising is mixed but far more positive than some recent media coverage of the failure of the British Railtrack Company would suggest. Not all the 26 British rail franchise operators have failed to turn a profit, improve service, or reduce government support. At least ten are operating profitably, and more will be when track repairs are completed. The Great Northeastern Railway, Scot Rail and First Great Western offer outstanding service. Throughout the United Kingdom the frequency of trains has increased, and entire fleets of new equipment are in service or on order. Clearly, far too many franchises were issued (which should be avoided here), but the near meltdown of British operations in the last year reflected the mismanagement of the Railtrack infrastructure

company, not the train operators. We need to learn from the errors of the British; but it is false to consider British franchising an overall failure.

An even more relevant example of the successful franchising of long-haul services can be found in Australia. The operation of the transcontinental INDIAN PACIFIC, GHAN and OVERLAND trains was assumed by a private operator (Great Southern Railway) which retained an assured level of government support but only could make a profit by increasing its business. This is precisely what has happened. More frequent trains with more cars are operating. Fares were raised to the maximum economic level, especially for First Class travel, yet patronage soared with the adoption of the philosophy that "the more passengers we carry, the more money we make".

We want to see the Amtrak Reauthorization and the ARC Review processes succeed in preserving a truly national U.S. rail passenger system. Their actions can facilitate either a creative redesign of American rail travel or lead to a virtually useless system of isolated corridors best described as "Balkan Track". This disconnected system would almost certainly disappear, as it would lack both broad-based Congressional support and any connectivity, thus becoming woefully under-used. As the airlines' "hub and spoke" systems have proven, easy connections between the maximum number of destinations are essential to efficiency, patronage and profitability.

#### *Areas of Concern With the ARC Report.*

*Neither Amtrak nor any successor can succeed without adequate capital and a multi-year guarantee of operational support.*—This need must be satisfied for any operator to succeed. No real planning can occur if an operator must annually beg for funding. The United States must commit to a rationally capitalized and funded rail network, or failure is certain. If this can be done, subsidies will gradually decline and patronage will increase.

*The semantics used in U.S. transportation policy must change.*—Why is it said we "invest" in highways and air service while "subsidizing" rail? It should be clearly understood by everyone that all of these funds accomplish the same thing: government funding assistance for the transportation needs of Americans in all parts of our country.

*ARC's suggestion that regional services be funded only by State or regional agencies is flawed and will insure such trains die.*—The partial Federal financial support of State-initiated trains (as is presently done) is a good approach which has produced outstanding routes such as the CASCADES in the Pacific Northwest and the new DOWNEASTER between Boston and Portland, Maine. It is unlikely the multi-state compacts needed under the ARC recommendations would be adequately funded at the State level. If, for example, three States were responsible for a route (a good example is trains between Chicago and Detroit), all operations could end due to a fiscal crisis in a single State. This is precisely what happened in 1971/72 when Amtrak's original Buffalo-Chicago train was dropped because the five States along the route failed to come to an agreement over how to divide the costs.

*ARC's recommendation to strip Amtrak of the ownership of the Northeast Corridor would degrade service.*—Any experienced railroader will attest to the need to control train dispatching. Amtrak's difficulty in raising speeds between New York and New Haven eloquently speaks to the problem of divided track ownership. This critical portion of the NEC is owned and dispatched by the Metro North Commuter Railroad, a joint agency of the New York and Connecticut Departments of Transportation. Metro North has priorities not necessarily including high-speed access for Amtrak. Every other part of the NEC also hosts commuter trains, but elsewhere Amtrak controls dispatching and can assure access for its trains.

Most importantly, there is no likelihood a separate agency for the NEC would be more successful in garnering Federal funds than Amtrak has been. A more likely outcome is that such an agency would try to collect ever-increasing track access fees from Amtrak and the various State commuter authorities. Since these agencies' resources already are severely stressed, the likely outcome would be a further drop in services.

*Land-cruise trains are not the answer in providing a national system.*—Tour trains are essential to the business plan of Rail Travel Center, but we clearly understand that they are not the "real transportation" required of a national rail system. Of necessity, these trains serve only end-points, run very infrequently, and are extremely expensive. Moreover, they could not provide regular transportation even if they wanted to, since their operators could not afford to give up their limited capacity to local customers, space that might be sold for the full journey. Their schedules also could not tolerate frequent stops to accommodate shorter-distance passengers and still arrive at sightseeing destinations at appropriate hours.

The land-cruise trains presently operating nationally do so in large measure because they are able to charter engines and train crews from Amtrak. Most importantly, they use Amtrak's track-access rights to run on the freight railroads. Without a national Amtrak system, these trains would disappear because their costs would be impossible and they would be unable to reach most scenic areas.

Amtrak's long-haul trains serve far more passenger than up-scale tourists. Only long-haul trains serve such large cities as Denver, Salt Lake, Memphis, New Orleans, Dallas and Minneapolis. They feed countless connecting passengers into Amtrak's regional and corridor trains, virtually none of whom would ride those services without the long-haul trains. These trains often are sold-out months in advance, particularly in the summer and at holidays. The sleeping car services are very heavily used. Even before September 11, First Class space frequently was unavailable. Since then, sleeper demand has grown 15–18 percent, yet (as we will note below) Amtrak's fleet of serviceable cars is declining just as demand grows.

Long-distance trains provide the only public transportation for many points and the only reliable winter service over large parts of entire routes, such as Chicago to Seattle. They are very well used. For example, the often-belittled EMPIRE BUILDER carried 398,000 passengers on the Chicago-Seattle (Portland) route in fiscal year 2001. This is an average of 1094 passengers per day, or 547 on each train (allowing for the fact that the train runs daily in each direction). Yet the EMPIRE BUILDER serves such tiny (but rail dependent) towns as Wolf Point, Montana and Williston, North Dakota. Many departures are sold out months in advance, a fact that often has eluded Amtrak's critics.

System-wide, these "little used" trains actually carried 5.88 million passengers in fiscal year 2001, over 16,110 riders per day. Typically, a third of the passengers on the national services connected to other Amtrak routes, frequently including the very corridor trains which are so often claimed to be Amtrak's only viable operations. Amtrak's own Market-Based Network Analysis (MBNA) in 1999–2000 made the clear point that elimination of Amtrak's national network would dramatically increase losses on all remaining routes. Not only would connecting revenues be lost, but other costs such as depreciation, reservations and terminal expenses would fall on a far smaller number of routes. This impact could convert a marginally profitable operation like the NEC to a money-loser.

If the tragic events of September 11–15, 2001 proved nothing else about our rail transportation policy, they demonstrated the absolute necessity of maintaining a real, interconnected, national rail system in the United States.

Having expressed areas of concern about the ARC Report, we turn to a discussion of points in the Report we think have real merit. Prefacing that analysis, it is necessary to indicate what we observe to be Amtrak's marketing problems and how they warrant at least the partial implementation of several ARC recommendations.

#### *Amtrak Marketing Problems*

*Amtrak tends toward a corporate culture of institutionalized pessimism, which too often causes it to miss business opportunities.*—Under unrelenting pressure to cut losses, Amtrak managers have focused for over three decades on cutting costs; but this concentration has had unfortunate consequences. Too often Amtrak has avoided expense by avoiding opportunity, acting as if it fears "the more people we carry, the more money we'll lose". Rail Travel Center's experience in its 20 years of selling Amtrak have shown us Amtrak's long-haul trains are frequently sold-out, yet for a variety of reasons Amtrak rarely responds to its lack of space by adding capacity.

This flies in the face of a fundamental business truth. If a merchant has something to sell and it quickly sells out, two lessons are properly learned: Get additional inventory now and raise prices until sales stop! Amtrak has experimented with market-driven pricing but rarely has acted on the need for more capacity. The long-haul system has been fundamentally compromised by the failure to meet market demand. These trains do not lack for riders; rather they lack capacity and frequency.

*Amtrak cripples itself further by not keeping proper records on potential business that is lost.*—Amtrak refuses to take waitlists for sold-out trains because accepting waitlists would require staffing its reservations bureaus with extra workers to call passengers as space cleared. Amtrak managers always have preferred cost-containment through reduced staffing as opposed to having the opportunity to board more passengers. The result has been to deny Amtrak information it needs to properly estimate unmet demand. Amtrak often has used the excuse of a lack of cars to justify its reluctance to take waitlists; and indeed, the company clearly needs much more equipment. But if Amtrak managers really knew how much business they were losing, they could better justify capital expenditures for new equipment and to repair existing cars.

Even in the west, where extra cars should be available given the size of the Superliner fleet, extra cars rarely are added. Indeed, in the last few years Amtrak has cut the capacity of most western trains, even in the face of frequently sold-out consists at peak seasons. Ideally a car would be added whenever advanced ticket sales reached the capacity of a train. The process of making that decision would be further enhanced if proper waitlists were kept. Even if cars never had to be added, waitlists would insure programmed capacity rarely ran empty by refilling space after cancellations.

All other transportation carriers . . . rail, sea and air . . . keep such waitlists. In 20 years at Rail Travel Center, we never failed to get a client onto the frequently sold-out VIA Rail Canada transcontinental service who was willing to be waitlisted. VIA therefore never lost that revenue.

*Amtrak intentionally has reduced the capacity of many long-distance trains by failing to repair wreck-damaged equipment and by deferring essential overhauls.*—This saved money at the expense of undermining patronage on trains which were turning away customers. The result is reflected in reduced capacity and declining patronage even on trains that often are sold-out long before departure.

A good example is the vital CALIFORNIA ZEPHYR, which traditionally carries three sleeping cars in the summer season over the entire route from Chicago to San Francisco. Last summer the third car ran only between Chicago and Denver on most dates. The supremely scenic portion of the route through the Rocky Mountains and the High Sierras was left without adequate sleeper capacity. Lack of cars was blamed. In order to obtain the added Chicago to Denver sleeper, Amtrak stripped its Chicago-Louisville train of any sleeping car space at all for the entire summer. Yet at that very time, Amtrak had many Superliner cars in storage awaiting either deferred overhauls or wreck repairs. Obviously, Amtrak managers favored short-term cost savings over meeting passenger demand. This behavior makes a well-used service like the CALIFORNIA ZEPHYR appear to suffer from declining patronage, when in fact passengers are being turned away.

The February 1, 2002 Amtrak Press Release announcing draconian maintenance cuts for fiscal year 2002 will compound the problem. If cars are not routinely overhauled, the stored fleet inevitably will grow. Every 180 days, all Amtrak equipment must receive major maintenance or be parked until that work is done. Even if essential repairs are performed, business will be lost if trains depart with cars that have torn upholstery, malfunctioning air conditioning, or improper cleaning.

In mid-January 2002, 32 of Amtrak's double-decker Superliner sleeping cars were out of service for maintenance and/or repair work. This represents 26.9 percent of the fleet. Some of these cars have been stored for months. Already Amtrak has trouble finding the cars to respond to both emergencies and opportunities.

The Congress could be very helpful by targeting a portion of its annual Amtrak appropriation for equipment maintenance and repair and insisting those funds not be diverted to any other purpose. In the short-term, an emergency appropriation is needed in fiscal year 2002 to repair stored cars for service before the summer season begins. Without capacity, Amtrak cannot possibly meet any performance goals.

The VIA Rail Canada system provides dramatic evidence of the success of running as many cars as demand requires. For years, VIA capped its trans-continental CANADIAN at 9 cars in the off-season and 17 in summer. VIA also feared "the more people we carry, the more money we'll lose". But faced with a permanently capped level of government support, VIA raised fares as high as the market would bear and added cars until demand was filled. Now the CANADIAN often carries 26 cars, but the train covers its costs in the high season and has dramatically improved its finances year-round. No VIA trains have been cut since 1994, despite no increase in operating subsidies throughout the 1990s.

*Amtrak consistently under-estimates the likely patronage of new services.*—Such remarkable success stories as the CAPITALS in California, the CASCADES in the Northwest, and the DOWNEASTER in Maine were grudgingly supported in their early stages by an Amtrak management that too often accepted the assumption few passengers would travel even on a well-run service.

The company's 1999–2000 Market Based Network Analysis (MBNA) might have offered a way out. Unfortunately, most new routes proposed in the first MBNA report were express and mail driven, and few of those actually were implemented. Amtrak appears to have completely abandoned the promised second round of MBNA recommendations, which was expected to include new passenger-oriented lines. The first MBNA was totally silent on the most obvious examples of unserved markets. For example, no trains were projected to serve Chicago to Florida (one of the busiest of all travel routes) or Denver to Dallas.

Starting new trains requires major Federal and State capital investment and some additional operating support. Amtrak would request this funding in its annual

budget if starting new routes was really an Amtrak priority. Congressional and State support follows the perception that something might actually happen. Consider the resurgent interest in trains in Oklahoma once the Oklahoma City to Fort Worth HEARTLAND FLYER began operating.

*Amtrak rarely does effective Route-Specific Marketing.*—Although Amtrak spends millions annually on advertising, virtually all of its media placements for the national network are vague “image” advertising. Amtrak tells users that “Trains are Fun”, “All Aboard Amtrak”, or “Tracks are Back”, but it rarely runs an ad targeting the potential users of an individual train. After 30 years of Amtrak operation, most people know that Amtrak exists. What they do not know is where it goes, what they could see on a trip, and how much it might cost to travel.

Rarely are we told “The Ten Best Reasons to Take the SOUTHWEST CHIEF”. Route-specific promotions work; and when Amtrak has tried this approach they often have been very successful, most recently in adding patronage to the threatened TEXAS EAGLE. But individual route ads do not appeal to national advertising agencies that want to place generic ads they perceive meet all needs.

Even when route-specific marketing has been pursued, Amtrak sometimes gets it wrong. The most recent example is the naming of all NEC trains “ACELA”. In the public mind, the term “ACELA” denotes the 150 mph American super trains; yet passengers board typical NEC services run with 25 year-old Amfleet cars and are deeply unhappy to find they are not on a true “ACELA”. Calling an all-stops New York to Philadelphia local an ACELA COMMUTER is simply confusing to the public, especially when a true ACELA EXPRESS bullet train may leave 5 minutes later.

This brings us to the areas where we feel the ARC report has merit. However, a basic principal must preface any discussion of possible franchise options. The present Amtrak network is far too skeletal, not too large.

We support experimental and limited franchising of selected Amtrak routes or service functions. This should produce operators who will aggressively market. We have no illusions that all government support can be eliminated, but it very likely can be gradually reduced as patronage grows with dedicated marketing. Each franchise award would come with an assured level of government support. As noted above, Amtrak has historically focused its efforts on the NEC and a few other regional corridors (largely to exclusion of the long-haul network) because it correctly perceived the money was in those routes. If real dollars were applied to the support of the long-haul system, its operation should attract both Amtrak and other potential vendors.

#### *Actions to be Taken Before any Franchising Begins*

*A special program needs to be funded to restore all stored Amtrak equipment to operating condition.*—No operator can succeed without adequate equipment, nor could any meaningful new routes be started or capacity added to existing trains without more cars than presently are serviceable. Amtrak must not sell any more of its stored equipment. Many fine cars in long-term storage should be renovated for operation. For example, an entire fleet of former Santa Fe RR “High Level” chair cars is stored, offering the potential for hundreds of seats per day if returned to service. There is absolutely no lack of demand for any of Amtrak’s stored assets.

*Tax incentives and grants should be made available for purchase of additional passenger cars.*—This is the essential capital commitment that the government must make to allow any rail program to succeed. New cars already are desperately needed, especially on eastern long-haul routes where Amtrak uses almost every car it owns every day and literally has no reserve fleet. If franchising succeeds, more cars will quickly be needed. We must spend money now to make future money. To minimize the amount in direct grants, the tax code should be reviewed for ways to encourage private sector initiatives; for example, using tax credits and accelerated depreciation. In addition, the fuel tax collected on the railroads should be diverted to railway capital needs.

*The High Speed Rail Investment Act (HSRIA) should be passed to assure regional route development.*—We are absolutely in support of the incremental upgrade strategy essential to the HSRIA process. A network of higher-speed corridors should hugely reduce Amtrak’s expenses and increase its ridership throughout the system.

*A Federal Passenger Rail Franchise Oversight Agency (FOA) should be created to analyze which services might be franchised.*—Not all routes may offer the prospect of real cost reductions. To assure a reasonable chance of success, the train services offered in a franchise award package must be sufficient in number to allow for adequate synergies of scale. It is very unlikely any individual train alone can be franchised. This agency should include representatives of the operating railroads, organized labor, the Department of Transportation, Amtrak, the States currently sup-

porting Amtrak trains, and the travel industry. An independent arbitrator, in cooperation with the FOA, should make the actual ultimate award of franchises.

Amtrak should be retained, and encouraged to bid to operate any services included in any franchise award(s).—The objective of any franchising should be to encourage an expanded rail passenger system with better economics through improved route-specific marketing, equipment utilization, and a more pro-active management culture.

It should be understood that no franchise awards would be likely for 2 years.

#### CONCLUSIONS

##### *Steps to Implement an Experimental Franchise Process*

*We should franchise at least one group of Amtrak routes.* The franchise should contain enough trains to give the operator a reasonable synergy of scale. For example, all long-haul trains running west from Chicago might be a franchise grouping. Another could be all trains run with Superliner equipment, or all long-haul trains to Florida, the Carolinas and New Orleans. Amtrak and other potential operators (including the freight railroads) should be encouraged to bid for the franchise to serve any route. Until the success of the initial franchise can be properly evaluated, all other services should remain under Amtrak's direct control.

There must be a Federal guarantee of a fixed level of financial support. This guarantee must be for a multi-year period equal to the duration of the franchise award, be contractually assured, and not subject to the annual appropriations process. For regional trains, partial State support also could be a part of the package. An expectation of the franchise award would be that an operator seek to gradually reduce the government's support; but it would be clearly understood the operator would not be expected to cover all fully-allocated costs.

The franchise holder would be required to operate the service for the full period of the award but could adjust service levels based on market demand as long as year-round service was provided. The Amtrak right of track access must be transferred to any franchise holder; but freight railroads should be encouraged to enter into the process, if possible by actually bidding for appropriate franchises. To encourage participation by the freight railroads, substantial tax incentives should be offered. This will help assure track access and good dispatching, even if the freight carrier is not the ultimate franchise operator.

There must be on-going review of the performance (both financial and operational), of each franchise. Poorly-run franchises could be cancelled or offered to other operators.

*Amtrak's equipment should be allocated on a competitive basis.*—If equipment needs are recognized on a route-by-route basis, mistakes (such as Amtrak's failure to order a single passenger car for its long-haul national system with the more than two billion dollars in capital provided in the recent Roth capital appropriation) can be avoided. From that appropriation, only express and mail equipment was purchased for routes outside the NEC and California.

*We should experiment with privatizing on-board services including dining cars and sleepers.*—For years Amtrak has had the authority to privatize its food services. This should be done now. Amtrak did contract-out the commissary function for its diners but not the actual operation on board the trains. This is where the greatest savings can be found. While it is unlikely a concessionaire would want to handle a single train, the entire long-haul system and/or a route grouping (such as all regional services out of Chicago) might look financially rewarding to a private operator.

While it is a cliché of rail operations that dining cars cannot be operated profitably, this is not always true. For many years the Alaska RR has used a contractor for its diners. Amtrak itself has two trains with private food operations: the North Carolina PIEDMONT and the Boston-Portland DOWNEASTER. Quality food service is absolutely essential to the rider, but options for lower cost service should be investigated. Amtrak would provide meal cars to the concessionaire, who would pay a reasonable fee to Amtrak for an effective service monopoly.

The same approach could be very successful for the operation of sleeping car services. Even if Amtrak retained the basic authority to run all routes, a strong argument can be made that subsidy payments should be focused on coach travelers, with First Class services reasonably expected to run profitably.

Franchising may reduce the need for Federal support; but Federal investment always will be needed, as it is for the airlines with the Federally funded air traffic control system. A franchise operator will have every incentive to concentrate all resources on the assigned route. This can only improve service and revenue returns.

An experiment with at least one franchised route and/or service package is a risk worth taking.

The ultimate object of the Amtrak Reauthorization and ARC review process should be to preserve and expand American rail passenger service. The present model does not work, and we see no easy fix simply by continuing the status quo. A true national network must be preserved. It is essential to the safety and public good of the nation.

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PREPARED STATEMENT OF THE REGIONAL TRANSPORTATION COMMISSION OF  
SOUTHERN NEVADA

INTRODUCTION

The Regional Transportation Commission of Southern Nevada (RTC) is pleased to have the opportunity to submit this testimony to the Transportation Appropriations Subcommittee in support of our fiscal year 2003 funding requests.

The RTC is a public entity created under the laws of the State of Nevada with the authority to operate a public transit system and administer a motor fuels tax to finance regional street and highway improvements. In addition, the RTC is the Metropolitan Planning Organization (MPO) for the Las Vegas Valley. As the public transit provider, the RTC operates Citizens Area Transit (CAT), a mass transit system that now carries more than 51.2 million annual passengers and recovers over 48 percent of its operating and maintenance costs from the farebox.

COMMUNITY

The Las Vegas community is currently home to over 1.4 million permanent residents. With 17 of the world's largest resort hotels adding over 32 million annual visitors, the actual population of Las Vegas on any given day exceeds 1.5 million persons. In addition, the Las Vegas metropolitan area continues to experience explosive growth. The 2000 census confirmed that the Las Vegas Valley is the fastest growing community in the United States. The economy of the Las Vegas Valley is characterized by a favorable business environment, a strong job market, an absence of a business and personal income tax, and a comparatively low property tax by national standards. This environment has fostered an era of extraordinary growth that, since 1990, has fueled the creation of over 175,000 new jobs and has witnessed the influx of over 500,000 new residents to the Valley. Current projections indicate that population and employment will continue to increase, exceeding 2.1 million residents and over 1 million jobs by the year 2020. This dramatic growth in population brings additional challenges to the transportation network with increases in congestion and travel delays. Ensuring adequate mobility is essential to maintaining a superior quality of life for residents and continuing growth in employment.

CITIZENS AREA TRANSIT

Citizens Area Transit (CAT) began service in December, 1992 and at that time represented the largest single start-up of new bus service in North America in over 20 years. Annual CAT ridership has grown from 14.9 million riders in 1993 to over 51.2 million riders in 2001; a growth rate of over 243 percent in only 9 years, catapulting CAT to the 25th largest bus system in the Nation out of 2,250 transit systems. Las Vegas is the fastest growing city in the United States, but ridership on the CAT system is growing at a rate faster than other local economic indicators, including population, employment, hotel rooms, visitor volumes, airport passengers, vehicle miles traveled, and auto registrations.

To address the ever increasing demand for transit services, the RTC has continually increased bus service. Since startup, total annual hours of revenue service have almost doubled, from 585,134 hours in 1993 to over 1.2 million hours in 2001. Similarly, annual vehicle miles have also doubled; from 6,384,660 miles in 1993 to over 16,098,000 miles in 2001. In addition, the CAT system has continued to successfully increase ridership while continuing to operate in a highly efficient manner. Costs per passenger have dropped consistently since startup, to approximately \$1.49 per passenger. The recent Harvard study, *The Private Provision of Public Transport*, found the CAT system's cost per hour of service and farebox recovery ratio to be among the best in the industry.

With 46 bus routes operating throughout the greater Las Vegas Valley, as well as routes in the rural communities of Laughlin and Mesquite, Nevada, CAT is now carrying over 4.5 million passengers per month, with some routes operating in excess of 200 percent capacity. While the CAT routes operating along the high-profile Las Vegas Boulevard provide service to up to 25,000 passengers per day, these

routes account for only 18 percent of the total monthly ridership. Clearly, many Las Vegas residents rely heavily on the CAT system to get to work, school, shopping, medical services and recreational facilities. Providing mass transit services throughout the Las Vegas Valley, CAT has become essential to the fabric of the Las Vegas community.

Although the CAT system has doubled service availability since startup, the demands for even more service continue to escalate. The urban boundaries of the Las Vegas Valley continue to push in all directions, creating new areas of growth and transit demand. In addition to under served areas, the frequency of service on most existing routes serving the residential base of the Valley is substantially less than needed. The single largest constraint faced by the RTC to providing more service continues to be lack of a sufficient number of coaches to meet demand. When compared to other peer cities, CAT transports up to 3 times the number of passengers per vehicle annually.

#### NEW STARTS FUNDING

The RTC is requesting \$20 million in fiscal year 2003 New Starts funding for its Resort Corridor fixed guideway project. The project is a 3.1 mile dual direction monorail that would have a seamless connection with a privately financed and constructed monorail in the Resort Corridor. This unique project exemplifies the opportunities that exist in a cooperative effort between the public and private sectors. The private sector portion is already under construction. Preliminary engineering on the public portion is expected to be completed in the Spring of 2002. The project received a recommended rating from the Federal Transit Administration (FTA) in its 2002 New Starts Report and has been recognized for its cost effectiveness, operating efficiencies and environmental benefits—each of which has received a high rating from FTA. The Administration has included funding in its fiscal year 2003 Department of Transportation Budget for the project. The requested fiscal year 2003 funds would be used for continuing development of the project, including land acquisition, relocation expenses, final design, and initial construction activities.

#### BUS RAPID TRANSIT

The RTC is seeking \$5 million in fiscal year 2003 bus discretionary funds to assist in the construction of platforms and shelters at bus stops for the RTC's Bus Rapid Transit project. The RTC is utilizing an innovative optically guided bus, known as Civis, that will operate along a heavily traveled commuting corridor. Traditional bus service along the Las Vegas Boulevard North Corridor currently carries over 8,000 passengers a day for a 13-hour peak period. The requested funds would enable the RTC to construct platforms and bus shelters along the corridor. This project offers a distinct opportunity for the implementation of new bus technologies and innovative transit services in the United States.

The Civis is a high capacity vehicle with low floor accessibility, perimeter seating, utilizing clean diesel electric power, and providing opportunities to reduce roadway spaces and to minimize costly traffic engineering improvements. The Civis vehicle carries up to 168 passengers and has four points of entry. From a service perspective, the most significant element of the BRT project is the usage of an automated guidance system. This guidance system will assist coach operators in the approach to a bus stop and aligning the actual stopping point of the vehicle at the platformed bus stop. The advantages of such a system in BRT operations include maintaining close curb distances, ensuring that vehicle doors are aligned with loading/exiting areas, and eliminating gaps between the vehicle and the platform stopping area. This not only significantly improves boarding for wheelchairs and the disabled community, but also allows for off-vehicle fare collection. More importantly, the features described above allow the RTC to carry a greater number of passengers more efficiently, expand services, increase passenger comfort and convenience, and assist the region in attaining enhanced air quality benefits.

The identified funds would assist RTC in construction of platforms and shelters at bus stops for the Civis service. The shelters will include off-board fare collection opportunities such as ticket vending machines, a passenger waiting area, seating and shade structures, and passenger amenities such as information kiosks.

The RTC is developing this BRT project to improve capacity, increase efficiency, and meet the ever increasing needs for mass transit in the Las Vegas Valley. BRT offers the capacity and other transit advantages of light rail, at a significantly lower capital cost, and this project will help demonstrate the viability of BRT as a New Start solution. Given that the demand for New Start funds nationwide far exceeds availability, cost effective options such as BRT are important not just to the RTC, but to the overall Federal transit program.

## HIGHWAY REQUESTS

The RTC is requesting \$15 million in fiscal year 2003 Federal Lands Highway Funding for an Upgrade project to the Southern Beltway (I-215). The overall project boundaries are from Interstate 15 to Stephanie Street in Henderson, Nevada. This project will be completed in two phases, as outlined below.

The Southern Beltway serves the rapidly growing southeast area of the Las Vegas Valley, including Henderson. Originally constructed as a 4-lane facility, the traffic volumes have increased well beyond the Beltway's designed capacity. The facility has seen an increase in the number of vehicles using it from about 23,000 daily trips when it opened in 1997/98 to about 73,000 in the year 2000 (the last year of available data). This represents an average annual increase in traffic of about 55 percent, or about 4 percent per month. The automatic traffic recorder on the Beltway showed that there were almost 83,000 vehicles a day using the facility in December, 2000. The constrained capacity creates severe degradation in service, particularly during the peak travel hours. At these times, there are about 40 percent more people trying to use the facility than the two lanes in each direction can accommodate.

The Southern Beltway Upgrade project from Pecos Road to Stephanie Street consists of widening into the existing median to provide a third travel lane in each direction. The existing twelve foot shoulder is Portland Cement Concrete, and was constructed to serve as a future travel lane. The identified project would utilize this shoulder and pave the remaining twelve foot median to act as the new full width inside the shoulder. In addition, auxiliary lanes would be constructed between the existing interchanges at Pecos Road, Green Valley Parkway, Valle Verde Drive and Stephanie Street. The improvements are necessary to accommodate the existing traffic demand on this segment that currently meets or exceeds the capacity of the roadway. The existing improvements were constructed entirely with local funds. The project cost for this segment is \$5 million.

## BUS AND BUS FACILITIES FUNDING

The RTC is requesting \$20 million in fiscal year 2003 bus discretionary funds for land acquisition and construction costs for a new Central City Transit Center (CCTC). The CCTC project will enhance intermodal connections among bus, monorail, and intercity rail modes. The project is a key component of the revitalization and redevelopment of downtown Las Vegas.

The current Downtown Transportation Center, located at 300 North Casino Center Boulevard is a major transfer point for many CAT routes. However, the facility (built in 1983) was never envisioned for a dynamic and growing mass transit system. There are currently 17 CAT routes using this facility, as well as a City Trolley service and three Charter bus companies. During the afternoon peak period, over 55 departures per hour are made out of this facility. Built on only three (3) acres of land, the facility is simply undersized for the transit service currently housed there. Additionally, the geographic and space constraints eliminate any opportunities to enhance intermodal connections and services.

With this in mind, the RTC has completed a feasibility study to identify a potential site for a new Central City Transit Center. The identified area encourages intermodal connectivity to high speed rail (Amtrak), a New Start monorail project, the Bus Rapid Transit (BRT) project identified above, as well as enhancing the passenger experience for the regular CAT bus system, the City Trolley service, and local charter services. The new area also provides enhanced access for non-motorized transportation options (such as walking or biking) to major local area attractions. Additionally, the development of the new CCTC will provide transportation access to a currently undeveloped area in the City of Las Vegas, that has been identified for the largest redevelopment project in Southern Nevada. The availability of adequate transportation options is critical to the success of this redevelopment effort. The requested funds will allow the RTC to commence land acquisition and construction of this major improvement to Intermodal Transportation options.

## CONCLUSION

The Subcommittee has been very helpful in the past in recognizing the ever increasing transit needs in Southern Nevada. To continue the growth of the CAT system, and to facilitate the deployment of innovative BRT and Monorail technology, the RTC requests that the Subcommittee provide funding in the amount of \$25 million in Section 5309 bus discretionary funds; \$20 million in New Start Funding and \$15 million in Federal Lands Highway funds. As described in this testimony, these projects are critical components of the comprehensive development of an integrated

intermodal transportation system capable of meeting the needs of the fastest growing city in the United States.

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PREPARED STATEMENT OF THE FLEET RESERVE ASSOCIATION

*Certification of Non-receipt of Federal Funds*

Pursuant to the requirements of House Rule XI, the Fleet Reserve Association has not received any federal grant or contract during the current fiscal year or either of the two previous fiscal years.

*The Fleet Reserve Association*

On behalf of the 140,000 members of The Fleet Reserve Association, I thank you Mister Chairman and distinguished members of the Subcommittee for the opportunity to submit the Association's views on the fiscal year 2003 Coast Guard budget.

The Fleet Reserve Association (FRA) is a Congressionally Chartered, non-profit organization, representing the interests of U.S. Navy, Marine Corps, and Coast Guard personnel with regard to pay, health care and other benefits.

The Association is the oldest and largest Association in the United States representing enlisted men and women of the Sea Services whether on active duty, in the Reserves, or retired. Established in 1924, FRA's primary mission is to act as the premier "watchdog" organization for maintaining and improving quality of life for Sea Service personnel. In the past 5 years, for example, FRA led the effort to amend the military's "Redux" retirement system for the better and provided a pay study referenced by Congress in the adoption of pay reform for mid-grade enlisted personnel in 2001, and subsequently by Congress in 2002 with regard to further revising the pay for all noncommissioned and petty officers in grades E5 thru E9.

In 1996, FRA sought recognition for the arduous duties performed by junior enlisted personnel serving aboard the Nation's naval vessels. Sea pay was recommended by the Association only to have the proposal turned down by the Navy. Last year, Congress gave the Navy and the Coast Guard the authority to manage its sea pay programs, the amounts paid to career personnel were increased and junior enlisted sailors again became eligible for sea duty pay.

There are other issues and programs advocated by FRA over the past years that are now a reality. TRICARE for Life is a major health care enhancement championed by FRA and other member organizations of The Military Coalition. (The Coalition is comprised of thirty-two military and veterans' organizations representing over five million active duty, Reserve, Guard, retired, and veterans, their families and survivors.) FRA is the leading enlisted association in the Coalition and has the distinction of holding two of the organization's six elected offices—President of the Coalition Corporation, and the Administrator. Additionally, three of nine Coalition committees are co-chaired by members of the Association's legislative staff including Personnel/Compensation/Commissary, Health Care, and Taxes/Social Security/Medicare.

The Association sponsors annual scholarship and patriotic essay competitions, and recognition programs honoring the Coast Guard Enlisted Persons and Recruiters of the Year, the Navy Sailors and Recruiters of the Year and the Marine Corps Recruiters and Drill Instructors of the Year.

*Introduction*

The Fleet Reserve Association's mission is focused on quality of life programs which are critically important to sustaining military readiness and the War on Terrorism. As it has for many years, the United States Coast Guard serves with distinction as the fifth branch of our Nation's Armed Forces and as an integral component ensuring our Nation's security.

Thanks to the heroic efforts of many Coast Guard personnel in the aftermath of the September 11, 2001, and increasingly effective public affairs initiatives, the American people have an increased awareness of, and appreciation for the Coast Guard's multi-faceted and demanding mission. FRA believes this is long over due.

Before addressing specific issues, the Association wishes to acknowledge the tremendous support of this distinguished Subcommittee for additional pay and benefit improvements enacted during the First Session of the 107th Congress. Across the board and targeted pay increases, higher housing allowances, reform of the PCS process and increased funding for health care are significant improvements and perceived as important recognition of the service and sacrifice of the men and women serving in the Coast Guard, and those who've served in the past.

FRA remains totally committed to ensuring Coast Guard parity with all pay and benefits provided DOD uniformed personnel. The Association notes with pleasure

the increased funding levels authorized for key pay and benefit programs in fiscal year 2002 and was especially pleased that adequate resources were allocated for the implementation of sea pay reform benefiting Coast Guard personnel during this year.

*The Fiscal Year 2003 Budget*

Regarding the Administration's fiscal year 2003 Budget, FRA first draws your attention to the need for additional supplemental funding to cover the costs of pay, health care and other benefit enhancements enacted as part of the fiscal year 2002 National Defense Authorization Act and implemented this year.

Half of these costs, totaling \$21 million, were funded in the supplemental legislation included as part of the fiscal year 2002 National Defense Appropriations Act enacted last fall. FRA understands that Congress intends to soon authorize the remaining \$21 million to fund these programs for the second half of the fiscal year as part of an emergency supplemental bill. The Association strongly supports this initiative. Unfortunately, this action will serve as yet another segment in the ongoing pattern of relying on supplemental appropriations to adequately fund the all important quality of life programs so important to the men and women serving in the United States Coast Guard.

FRA is encouraged that the \$7.1 billion fiscal year 2003 budget proposal establishes accrual funding for health care and retirement accounts and that the spending plan assumes enactment of the pending U.S. Coast Guard Authorization Act (S. 951) which authorizes over 7,462 additional end strength billets.

The Association is pleased that full funding for pay increases, health care and other benefit improvements is included in the Administration's fiscal year 2003 Budget. The U.S. Coast Guard's budget request includes operations funding of \$4.6 billion, significantly above the fiscal year 2002 budget of \$3.3 billion, and a retired pay account allocation of \$736 million to cover the cost of implementing accrual accounting procedures similar to the Department of Defense's.

The Reserve training budget totals \$136 million to recruit, train, and support a Coast Guard Selected Reserve Force of 9,000 personnel. Training is essential to ensuring military readiness and fully funding this account is very important because Reservists are increasingly called upon to support the prosecution of the war effort. Due to inadequate end strengths levels that are commensurate with increasing operational commitments, all of the services must rely increasingly on Reserve personnel to meet mission requirements.

*Stretched to the Limit*

The headline of a November 13, 2001 Washington Times opinion piece reads "Coast Guard more Important than Ever." FRA could not agree more. The article by Christopher Lehman and Scott Truver offers a sobering overview of the challenges facing the Coast Guard in this new era of heightened national security. Other newspaper stories chronicle the Coast Guard's operational challenges due to limited resources and heightened security demands in the wake of the attacks on our Nation last September.

In a January 25, 2002 speech in Portland, Maine, President George W. Bush stated, "I saw how the Coast Guard has responded after 9/11 and I know how important the Coast Guard is for the safety and security and the well-being of our American citizens." He cited the rescue of five fishermen from a 74-foot fishing vessel that sank in heavy seas and noted that "This story was repeated 4,000 times last year." He further noted that Coast Guard men and women captured over 60 tons of cocaine and responded to over 11,000 oil spills in 2001. These statistics were compiled prior the terrorists' attacks and reflect consistently impressive efforts and dedication to service of all Coast Guard personnel.

President Bush also recognized the fact the Coast Guard men and women are. "Working around the globe with the Department of Defense."

Because of the "new normalcy" requirements, Coast Guard people are also being pushed to exhaustion by increased work requirements that stretch thinly staffed units beyond their work limits and negatively affect readiness. To meet the challenge approximately 2,900 Reservists have been called to active duty, 10,000 vessels have been boarded, the Coast Guard has launched the largest port security operation since WWII and the service remains on a heightened state of alert at over 361 major ports. In addition, hundreds of cutters, aircraft and small boats manned by thousands of USCG active duty and Reserve members are guarding our coasts. Since last September 11, the USCG has conducted over 30,000 port security patrols and over 3,000 air patrols. These are impressive efforts contributing significantly to our enhanced security B and they are accomplished by dedicated men and women totally committed to serving our Nation.

As it has in the past, FRA strongly supports increasing end strengths commensurate with these growing operational commitments. The Association salutes the distinguished Subcommittee's leadership with regard to the House adopting H.R. 3507, the Coast Guard Authorization Act for 2001, while urging the Senate leaders to expeditiously bring similar legislation (S. 951) to the floor for a vote by the full Senate.

The Coast Guard has not had the benefit of an authorization act since 1998. The Senate version of this legislation authorizes significant end strength increases to 45,500. The legislation also addresses quality of life enhancements including the authorization of compensatory leave for members stationed at isolated duty stations, and the extension of expired housing authorities to promote construction or acquisition of much needed housing on or near Coast Guard units where adequate, affordable housing may not be available.

#### *Pay Comparability*

FRA strongly supports the proposed 4.1 percent active duty pay increase included in the Administration's budget and the pending plan to again target career enlisted personnel for higher adjustments. The Association is also encouraged that the Administration is requesting \$360 million for additional military pay in the DOD budget, however FRA is concerned with commensurate funding in the Coast Guard budget to cover this increase for its personnel.

Thanks to the strong support from the Administration and Congress, significant progress is being made in closing the pay comparability gap through 2006. The Association believes all personnel need and deserve annual raises at least equal to private sector wage growth and appreciates the continuing higher than ECI pay hikes authorized by Congress and the targeted increases particularly for senior enlisted personnel. These leaders are increasingly valuable due to their seasoned experience, leadership, education, and advanced technical skills. They also command high wages in the civilian market and often express frustration regarding compressed pays at the senior enlisted level (E-8 and E-9) as a lack of recognition and appreciation for their roles as leaders and teachers.

Pay increases are important to all Coast Guard men and women and convey a powerful message to service members about the importance and value of their service to our country. However, at the end of the 2000-2005 period, a pay gap in excess of 7 percent will still remain between military and civilian pay levels and additional increases are needed to close the gap.

#### *Benefits Disparity*

There are challenges regarding mandatory versus discretionary funding for benefits paid to Coast Guard personnel. Along with its sister services, the Coast Guard adjusts discretionary funding to best address its particular needs. Members of the Coast Guard are authorized to receive the same benefits as their DOD counterparts, however, the lack of adequate funds may limit what they in fact receive.

The following list offers examples of the disparities between benefits offered to DOD personnel and those offered to Coast Guard members.

**DOD & U.S. COAST GUARD—COMPARISON OF PERSONNEL INCENTIVES & BENEFITS**

| Item                       | Department of Defense   | U.S. Coast Guard  |
|----------------------------|---|---|
| Enlistment Bonuses .....   | \$2K to \$20K. DOD is also combining enlistment bonuses and college fund resulting in a maximum payment of \$70K.       | \$1K to \$20K. USCG cannot currently afford to combine the enlistment bonus with the college fund; recruits must select one or the other. |
| College Fund .....         | \$50K .....   | \$30K.  |
| College Loan Payback ..... | \$65K. DOD is combining the college loan payback with the enlistment bonus which results in a maximum payment of \$85K. | Currently the USCG does not have legislative authority to implement a program of this nature.   |
| Distance Learning .....    | Satellite based & web-based .....   | Currently funding a pilot project aboard one CG cutter.   |
| Child Care Subsidies ..... | \$3,588 per child .....   | \$327 per child.  |

From this comparison, it is obvious that the Coast Guard faces significant challenges in providing competitive incentives to attract and retain an adequately trained work force. The childcare subsidy disparity is a startling statistic and FRA notes that childcare needs for Coast Guard personnel and their families are no less important than the needs of their DOD service counterparts.

#### *Housing Allowance (BAH)*

FRA appreciates Congressional support for increased basic allowance for housing (BAH) rates and enactment of a plan to eliminate average out of pocket housing costs by 2006. Adequate funds are required in the Coast Guard budget to cover these improvements. The Association also strongly supports an increase of \$7 million for housing at various Coast Guard stations.

Unlike the other services, the Coast Guard relies on leased housing for its personnel in some duty locations and funding for this program must be sustained. This reliance is due to the unavailability of military housing at or near Coast Guard duty stations, many of which are located in high-cost resort areas along our coasts. Because of these challenges, FRA advocates an accelerated implementation of the elimination of average out of pocket housing costs to ease the financial impact imposed on many Coast Guard personnel and their families.

#### *Health Care*

A top FRA priority is access to quality and affordable health care for all beneficiaries including U.S. Coast Guard personnel and retirees. The Association appreciates TRICARE improvements for active duty personnel including enhanced claims processing, implementation of TRICARE Prime Remote for dependents, and mileage reimbursement for specialty care for all TRICARE Prime beneficiaries including active duty personnel and enrolled retirees.

Major enhancements were also enacted last year for retirees, including an expanded pharmacy benefit for Medicare-eligibles along with TRICARE For Life that offers second payer coverage to Medicare for older retirees. These are major improvements and recognition of the government's past commitments of health care for life for those who serve careers in the uniformed services.

FRA offers thanks to members of the Subcommittee for supporting these initiatives, while reminding each member of the panel of the importance of continued full funding (to include both mandatory and discretionary requirements) for these important programs.

Regarding collaborative efforts between DOD and the Department of Veterans Affairs, FRA strongly supports sharing agreements and partnering initiatives between the two systems that serve different beneficiary groups, but only if those efforts would enhance or maintain access to quality health care for the beneficiaries of each of the departments. Although this distinguished panel does not have jurisdiction over these issues, the Association believes that it's important to state its position and advise you of the ongoing work of the President's Task Force to Improve Health Care for Our Nation's Veterans.

Other health care concerns include providing adequate health care coverage via a "safety net" for Coast Guard Reservists and their families in the wake of call ups since last September; providing TRICARE Prime Remote coverage to family members who are unable to reside with the service member; a waiver of the Medicare Part B penalty for older retirees who reached age 65 prior to October 1, 2001, and increasing the number of TRICARE providers.

#### *Recruiting And Retention*

There is an urgent need for the Coast Guard to recruit and retain adequate numbers of personnel to sustain the service's multi-faceted mission requirements. As discussed above, pending legislation will authorize significant end strength increases over the next three years and these additions will require adequately staffed and funded recruiting offices with associated support resources.

Now more than ever senior petty officers are needed to guide, lead, teach, train, counsel, and inspire their junior charges and do likewise for young men and women entering the officer ranks. These petty officers also replace officers in positions of command and, when called upon, change their stripes for bars during national emergencies. FRA notes with pride the increasing responsibilities shouldered so effectively by the Coast Guard's senior enlisted personnel and takes great pride in representing their interests on quality of life issues on Capitol Hill.

The Coast Guard is meeting its recruiting and retention goals thanks in part to the increased number of recruiters and infusion of additional advertising funds in recent years. However, the Coast Guard is challenged to maintain adequate numbers of qualified personnel in key job specialties. The service must be especially competitive for personnel with these skills because they see jobs in the private sector that offer better hours, higher wages and much less stress.

#### *Conclusion*

As you know, the Coast Guard provides tremendous service to our Nation and is integral to our homeland security. Appropriations for the Coast Guard generate

from four to five times the return on each dollar invested. The broad range of services and support provided by the Coast Guard and its personnel generally go unnoticed until there is a major disaster or national emergency such as the terrorists attacks of last September.

As noted by President Bush in the speech cited above, "The Coast Guard has a vital and significant mission. And, therefore, the budget that I send to the United States Congress will have the largest increase in spending for the Coast Guard in our nation's history." FRA strongly supports the President's budget request and urges this distinguished Subcommittee to do likewise.

The Coast Guard is always there, and true to its motto of *Semper Paratus* B always ready. Please ensure adequate funding for the personnel programs discussed above to ensure parity with benefits and quality of life programs offered by the Department of Defense.

Thank you again for the opportunity to submit the Association's views and for your strong commitment and continuing support of the men and women serving so magnificently in the United States Coast Guard.

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PREPARED STATEMENT OF THE UNIVERSITY CORPORATION FOR ATMOSPHERIC  
RESEARCH

On behalf of the University Corporation for Atmospheric Research (UCAR) and the university community involved in weather and climate research and related education, training and support activities, I submit this written testimony for the record of the Senate Committee on Appropriations, Subcommittee on Transportation.

UCAR is a consortium of 66 universities that manages and operates the National Center for Atmospheric Research (NCAR) and additional research, education, training, and research applications programs in the atmospheric and related sciences. The UCAR mission is to support, enhance, and extend the research and education capabilities of the university community, nationally and internationally; to understand the behavior of the atmosphere and related systems and the global environment; and to foster the transfer of knowledge and technology for the betterment of life on earth. In addition to its member universities, UCAR has formal relationships with approximately 100 additional undergraduate and graduate schools including several historically black and minority-serving institutions, and 40 international universities and laboratories. UCAR is supported by the National Science Foundation (NSF) and other Federal agencies including the Federal Aviation Administration (FAA).

The fiscal year 2003 budget request for the FAA should support the Administration's and the country's commitment to a safe, efficient, and modern aviation system. Specific agency goals include an 80 percent reduction in the fatal accident rate on U.S. carriers by 2007 and the upgrading of the air traffic control system. While the rate of commercial aviation accidents is very low worldwide, recent dramatic increases in air traffic (with the exception of the months following September 11) have resulted in an increase in the number of accidents. If the current rate of increase were to stay constant over the next 15 years, the result will be an average of 50 catastrophic accidents per year—almost one per week. As passenger traffic increases since the events of September 11, it is imperative that this country not lose sight of the FAA Safer Skies goals and that the proposed request of \$4.6 billion for the FAA's primary mission of safety in the skies and on the ground at airports be applied wisely.

According to the National Transportation Safety Board, approximately 30 percent of all aviation accidents, and 37 percent of the fatal accidents, are weather related. Aviation weather hazards include low cloud ceilings and visibility; airframe icing, both on the ground in the airport terminal area and while airborne; runway contamination by ice, snow, and water; and thunderstorms and convective activity which produces low-altitude windshear, strong and gusty winds, heavy rains, hail, and lightning. (As the 1999 Little Rock accident that resulted in 11 fatalities demonstrates, violent thunderstorms continue to be among the most dangerous weather phenomena for all classes of aviation.)

Regarding the fiscal year 2003 request for the FAA, I would like to comment on accounts related to aviation weather research that fund the collaborative work of researchers in universities and Federal laboratories. These accounts are relatively small in dollar amount, but the work is potentially life-saving for our nation's pilots and passengers.

### *Facilities and Equipment*

Within the Facilities and Equipment section of the Federal Aviation Administration (FAA) budget, please add \$5.0 million for development and implementation of a terrain-induced windshear alert system. This pilot project would be done in the Juneau, Alaska, area because of the complex terrain surrounding the airport. The technology developed could lead to a National Terrain-Induced Windshear and Turbulence Alerting System that would be installed in airports nation-wide to help prevent crashes like the one that occurred in 1991 on approach to the Colorado Springs Airport. Work would include verifying the prototype alert system and transferring the technology to FAA systems developers. I urge the Committee to support the request of \$2.99 billion for Facilities and Equipment in fiscal year 2003, and to add \$5.0 million to support the development and implementation of a terrain-induced, windshear alert system.

### *Research, Engineering and Development (R&E&D)—Weather Program*

The Weather Program conducts applied weather research to solve operational aviation problems. In collaboration with the National Weather Service, the FAA intends to provide more accurate, accessible and efficient weather forecasts and severe weather warnings through the development of new technology, better delivery mechanisms, and superior aviation weather instruction materials. In addition, upgrades will be made to wake turbulence standards and procedures. (Wake turbulence is likely to have been a major contributing factor to the November commercial airline crash in New York.) These improvements will make aviation safer, improve flight planning, and increase air traffic controller and pilot decision-making skills regarding interpretation of weather forecast data. In order to allow critical research achievements to be applied quickly to operations, I would like to make the following recommendations regarding the two Weather Program accounts:

#### *Weather Program—Safety*

I urge the Committee to support the fiscal year 2003 Budget Request of \$19.4 million for the Weather Program Safety account, and to add \$2.0 million (for a total of \$21.4 million) in order to initiate two life-saving programs:

The National Terrain-Induced Windshear and Turbulence Alerting System (mentioned above) that would be installed in airports throughout the nation, and

The Gravity Wave Research Program to develop a technique for detecting and alerting pilots to a unique set of extremely dangerous low-level wind conditions that precede certain thunderstorms. These conditions occur at and around a number of airports in the country and are of extreme danger to aircraft, particularly during take-off and landing.

#### *Weather Program—Efficiency*

The Budget Request for the Weather Program Efficiency account is decreased in fiscal year 2003 by \$806,000. I urge the Committee to support the life-saving work of the Weather Program Efficiency account by appropriating the requested \$9.1 million and adding \$1.5 million (for a total of \$10.6 million) to initiate a Terminal Area High-Resolution Winds Product that would give air traffic controllers a model depiction of wind location near airports based on special processing of data from NEXRAD radars. This addition to the request would mean that the account would receive only a 0.07 percent increase over fiscal year 2002. If possible, please consider appropriating the request plus inflation in addition to the add-on.

Given past experience with the Weather Program section of the budget, I ask that you oppose any attempt to reallocate weather research funding within this account. The research community receives funding from the R&D budget to do work that is critical to the safety of U.S. citizens including turbulence forecasting, ceiling and visibility forecasting, thunderstorm and winter storm forecasting, and prediction of airborne icing. Any reallocation of funds in this line jeopardizes that life-saving work.

On behalf of UCAR, as well as all U.S. citizens who take to the skies, I want to thank the Committee for the important work you do for this country's scientific research, training, and technology transfer. We appreciate your attention to the recommendations of our community concerning the fiscal year 2003 FAA budget and we appreciate your concern for safety within the nation's aviation systems, particularly during this extraordinary time in our nation's history.

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### PREPARED STATEMENT OF THE UPPER MISSISSIPPI RIVER BASIN ASSOCIATION

The Upper Mississippi River Basin Association (UMRBA) is the organization created in 1981 by the Governors of Illinois, Iowa, Minnesota, Missouri, and Wisconsin

to serve as a forum for coordinating the five states' river-related programs and policies and for collaborating with Federal agencies on regional water resource issues. As such, the UMRBA has an interest in the budget for the U.S. Coast Guard.

In the current national security environment, it has become more important than ever to provide the Coast Guard with the resources it needs to fulfill its multiple missions. Clearly the Coast Guard has vital new functions specifically related to homeland security, and these must be adequately funded. But perhaps even more significant are the ways in which the Coast Guard's other traditional missions can contribute to enhanced security while simultaneously supporting navigation safety and environmental protection. This includes activities such as aids to navigation, vessel and facility inspections, emergency response, and mariner licensing. Nowhere are these services more important than on the Upper Mississippi River System, which Congress has designated as a nationally significant commercial navigation system and a nationally significant ecosystem. The Coast Guard must be adequately funded if the river is to continue to serve both of these important functions.

#### *Operating Expenses*

Of continuing concern to the UMRBA is funding for the Coast Guard's Operating Expenses account. The President's fiscal year 2003 budget proposal includes \$4.635 billion for this account, an increase of 19 percent from the fiscal year 2002 enacted level. However, this increase would be targeted almost entirely to homeland security projects and personnel-related costs, including pay raises and retirement funding. While details concerning the security projects are not available, some will undoubtedly help enhance other Coast Guard missions. However, it is also true that there will be increased demands on these other mission areas to support security operations.

Congress must not lose sight of the fact that the Operating Expenses account funds activities that are critical to the safe, efficient operation of the Upper Mississippi River and the rest of the inland river system. Through these missions, the Coast Guard maintains navigation channel markers, regulates a wide range of commercial vessels in the interest of crew and public safety, and responds to spills and other incidents. In calendar year 1999, the Coast Guard's Upper Mississippi River System units inspected 644 vessels; responded to 100 oil spills; and managed 401 other reportable marine casualties, including groundings, injuries, and vessel breakaways. These numbers speak to the Coast Guard's vital role in establishing and enforcing standards, maintaining navigation aids, and responding to various incidents. The beneficiaries include not only commercial vessel operators, but also recreational boaters; farmers and others who ship materials by barge; and the region's citizens, who benefit enormously from the river as a nationally significant economic and environmental resource.

Recent years have brought a number of changes to the way the Coast Guard operates on the inland river system, including elimination of the Second District; closure of the Director of Western Rivers Office; decommissioning the Sumac, which was the largest buoy tender on the Upper Mississippi River; and staff reductions. The states understand that these decisions were driven by the need for the Coast Guard to operate as efficiently as possible, and the states support that goal. However, such changes must be carefully considered and their effects monitored, particularly in light of the increased demands that we are now placing on the personnel and assets that remain in the region. The UMRBA is quite concerned that staff reductions and resource constraints have combined to impair the Coast Guard's ability to serve as an effective, proactive partner.

In recent years, the Coast Guard's capacity to participate in important regional initiatives has been limited. Moreover, increased fuel prices and other factors have constrained the Coast Guard's ability to do even routine work, thus raising public safety concerns. Now we are learning that increased security demands are reducing the staff assigned to vessel inspections and limiting the Coast Guard's investigation of reported spills. Sending a single person to conduct vessel inspections reduces the rigor of those inspections, and, in a worst case scenario, potentially puts the inspector at risk. Similarly, electing not to respond to reports of small spills means some of these spills will go uninvestigated and puts increased demands on local officials who do not have the Coast Guard's expertise or resources. Moreover, it could result in costly delays should a spill turn out to be considerably larger than first reported. While everyone recognizes the need to adjust to our new security environment, it is essential for the Coast Guard to retain the capacity to perform its traditional missions on the Upper Mississippi River. Temporary adjustments have been necessary as the Coast Guard strives to meet immediate needs, but these should not become long term standard operating procedures. Toward that end, the UMRBA supports the President's fiscal year 2003 budget request for the Coast Guard's Operating Ex-

penses account and urges Congress to ensure that sufficient resources from within this account are allocated to the Coast Guard's inland river work.

#### *Navigation Fees*

The UMRBA continues to oppose fees for navigation assistance services, which have been proposed frequently in previous years. Last year, the Administration clearly stated its opposition to such fees, while this year's budget proposal appears to be silent on the matter. The nation's navigable waterways are a critical part of our transportation infrastructure, just as is the national highway system. Providing the basic services required to operate that infrastructure safely is a fundamental role of government. The benefits of buoy placement and maintenance, vessel traffic services, radio and satellite navigation systems, and waterways regulation do not accrue only to the commercial operators who would be subject to such fees. Recreational boaters also directly use these services. Moreover, municipal and industrial water intake operators, farmers and other shippers, consumers, the river's natural resources, and citizens along the river all benefit indirectly from the contributions that these Coast Guard services make to the safe, efficient operation of the navigation system. One group simply should not be required to pay the costs of services whose real benefits are distributed so broadly.

#### *Coast Guard Reserve*

Several other Coast Guard missions and programs are also important to the Upper Mississippi River states. Unfortunately, devastating floods in several recent years have given many of this region's citizens direct personal experience with the importance of the Coast Guard's reservists. Reserve forces are a critical part of the Coast Guard's ability to respond effectively to natural disasters and other large-scale events. In addition, reservists perform key staff functions at many of the marine safety detachments on the inland rivers. The role of reservists in the region has become all the more crucial as the detachments' active duty staffing levels have been reduced and their security-related activities have increased. The UMRBA supports the President's request of \$113 million for the Coast Guard Reserve.

#### *Boating Safety Grants*

In addition, the Coast Guard's boating safety grants to the states have a proven record of success. The Upper Mississippi is a river where all types of recreational craft routinely operate in the vicinity of 15-barge tows, making boating safety all the more important. As levels of both recreational and commercial traffic continue to grow, so too does the potential for user conflicts. This is particularly true with major events, such as the upcoming commemoration of the Lewis and Clark expedition, which is expected to draw large numbers of boaters to the St. Louis area. Boat safety training and law enforcement are key elements of prevention. Unfortunately, this year the Coast Guard continued its long-standing practice of requesting only \$59 million for state boat safety grants. The UMRBA urges Congress to appropriate the full authorized amount of \$70 million to the Boat Safety account to support the states in this important mission.



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